



★**PERSONNEL AND GOVERNMENT RECOVERY CLAIMS**

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This instruction implements AFPD 51-5, Military Legal Affairs, Section A, Administrative Claims For or Against the Government. This is the first revision to AFI 51-502, which provides guidance and procedures for adjudicating and settling the claims of Air Force personnel for loss or damage to their property; for investigating, asserting, and settling pro-Government tort and hospital recovery claims; and for processing and settling claims under Article 139, Uniform Code of Military Justice (UCMJ).

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SUMMARY OF REVISIONS

This is the first revision to AFI 51-502, 1 June 1994. The revision to the AFI implements a number of changes in claims payment policies and procedures for personnel claims, with the following major changes: Paragraph 1.2.2.2 implements statutory changes providing authority to pay claims up to \$100,000 for claims arising from emergency evacuations or extraordinary circumstances; paragraph 2.36.4 changes procedures for adjudicating uniform claims; paragraph 2.45.2 provides for waivers of item maximums on an individual claim basis.

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Chapter 1**GENERAL INFORMATION AND ADMINISTRATION****1.1 Claims Jurisdiction:**

1.1.1 Geographic Claims Jurisdictions. The Air Force designates a geographic area of claims responsibility (claims jurisdiction) for each base staff judge advocate (SJA).

1.1.1.1 In CONUS, AFLSA/JACC:

1.1.1.1.1 Designates and approves changes to claims jurisdictions on maps distributed to the field.

1.1.1.1.2 When there is a question, makes the final decision on which claims jurisdiction encompasses a particular claim.

1.1.1.2 HQ USAFE/JA, HQ PACAF/JA, and HQ CENTAF/JA designate claims jurisdictions for the bases within their areas of responsibility overseas.

1.1.1.3 The Department of Defense (DoD) assigns areas of single-service claims responsibility to each military department.

1.1.2 Personnel Transportation Claims. The claims office serving the base where the claimant performs duty; or the base whose claims jurisdiction encompasses the duty location of a claimant not performing duty at a base with a claims office, or the location of a separated or retired member's residence; investigates and settles the claimant's personnel transportation claims.

EXCEPTION: When local agreements provide otherwise, the claimant uses the agreed upon claims office.

1.1.2.1 If the property which is the subject of the claim is not located near the claimant and an inspection is necessary, claims personnel may transfer the claim to the base within whose claims jurisdiction the property lies.

1.1.3 Hospital Recovery Claims. The SJA of the base providing legal services to the Air Force medical facility that furnished initial medical care to the injured party processes any associated hospital recovery claims.

1.1.3.1 If an Air Force facility did not furnish the initial medical care, the SJA of the Air Force base having claims jurisdiction over the initial treating facility processes the claim.

1.1.4 Claims of Judge Advocate Personnel.

1.1.4.1 For the claims of judge advocate personnel, the office where the judge advocate employee is assigned:

1.1.4.1.1 Accepts the claim and assembles the file.

1.1.4.1.2 Sends the file to the nearest Air Force claims office for adjudication and settlement.

1.1.4.2 The original office investigates or inspects as necessary before transferring it or after transferring it when the gaining office requests.

1.1.5 Other Claims Under This Instruction. For other claims under this instruction, the claims office having claims jurisdiction over the place of the incident giving rise to the claim investigates and settles such a claim.

EXCEPTION: When local agreements provide otherwise, the claimant uses a different claims office.

1.2 Delegating Settlement Authority:

1.2.1 Settlement authority is the delegated authority to:

1.2.1.1 Pay a claim in any amount up to the amount stated in the delegation.

1.2.1.2 Deny a claim in any amount.

1.2.1.3 Approve a compromise, waiver, suspension, or termination of a claim.

NOTE: Table A.2.1 summarizes delegations of settlement authority.

1.2.1.3.1 A settlement authority may reduce, withdraw, or restore delegated authority at any time.

1.2.2. Personnel Claims:

1.2.1

1.2.2.1. The Secretary of the Air Force has delegated these individuals the authority to settle personnel claims for \$40,000 or less and deny claims in any amount:

1.2.2.1.1 The Judge Advocate General (TJAG).

1.2.2.1.2 The Deputy Judge Advocate General (DJAG).

1.2.2.1.3 The Director of Civil Law and Litigation.

1.2.2.1.4 The Chief, branch chiefs, and section chiefs of the General Claims Division, Air Force Legal Services Agency (AFLSA).

1.2.2.1.5 The SJA of CENTAF (for claims arising out of CENTAF).

1.2.2.1.6 The SJA of each Air Force base, station, and fixed installation.

1.2.2.2 The Secretary of the Air Force has delegated these individuals the authority to settle personnel claims for over \$40,000, up to \$100,000 for claims arising from emergency evacuations or extraordinary circumstances:

1.2.2.2.1 The Judge Advocate General (TJAG)

1.2.2.2.2 The Deputy Judge Advocate General (DJAG).

1.2.2.2.3 The Director of Civil Law and Litigation.

1.2.2.2.4 The Chief of the General Claims Division.

1.2.3. The Secretary of the Air Force has delegated these individuals the authority to settle, compromise, suspend, or terminate action and to accept full payment on carrier recovery claims for \$100,000 or less:

1.2.3.1. TJAG

1.2.3.2. DJAG

1.2.3.3. The Director of Civil Law and Litigation

1.2.3.4. The Chief, branch chiefs, and section chiefs of the General Claims Division, AFLSA.

1.2.3.5. The SJA of CENTAF (for claims arising out of CENTAF).

1.2.3.6. The SJA of each Air Force base, station, and fixed installation.

1.2.4. The Secretary of the Air Force has delegated these individuals the authority to accept full payment of any claim or to approve a compromise, suspension, or termination of a property damage tort claim in favor of the United States.

1.2.4.1. For claims of \$100,000 or less, the Secretary of the Air Force has delegated authority to:

1.2.4.1.1. TJAG.

1.2.4.1.2. DJAG.

1.2.4.1.3. The Director of Civil Law and Litigation.

1.2.4.1.4. The Chief, branch chiefs, and section chiefs of the General Claims Division, AFLSA.

1.2.4.2. For claims of \$25,000 or less, the Secretary of the Air Force, in addition to the individuals in paragraph 1.2.4.1, has delegated authority to:

1.2.4.2.1. The SJAs of USAFE and PACAF.

1.2.4.2.2. The SJA of CENTAF (for claims arising out of CENTAF).

1.2.4.2.3. The SJAs of numbered air forces (NAF) and single-base general courts-martial (GCM) jurisdictions located in PACAF and USAFE.

1.2.4.2.4. The SJAs of each Air Force base, station, or fixed installation.

1.2.5. The Secretary of the Air Force has delegated the authority to accept full payment of any hospital recovery claim or to approve a compromise, waiver, suspension, or termination of a claim.

1.2.5.1. For claims of \$100,000 or less, the Secretary of the Air Force has delegated authority to:

1.2.5.1.1. TJAG.

1.2.5.1.2. DJAG.

1.2.5.1.3. The Director of Civil Law and Litigation.

1.2.5.1.4. The Chief, branch chiefs, and section chiefs of the General Claims Division, AFLSA.

1.2.5.2 For claims of \$40,000 or less, the Secretary of the Air Force, in addition to the individuals in paragraph 1.2.5.1, has delegated authority to:

1.2.5.2.1. The SJAs of PACAF and USAFE.

1.2.5.2.2. The SJA of CENTAF (for claims arising out of CENTCOM).

1.2.5.3. For claims of \$25,000 or less, the Secretary of the Air Force, in addition to the individuals in paragraphs 1.2.5.1 and 1.2.5.2, has delegated authority to:

1.2.5.3.1. The SJAs of NAFs and single-base GCMs located in PACAF and USAFE.

1.2.5.3.2. The SJAs of each Air Force base, station, or fixed installation.

1.2.5.4. Only the Department of Justice (DoJ) may approve hospital recovery claims that involve:

1.2.5.4.1. A waiver or compromise of claims that have a value of \$100,000 or more.

1.2.5.4.2. A settlement previously forwarded to the DoJ.

1.2.5.4.3. A settlement in which a third party files suit against the United States or an injured party involved in the same incident.

1.2.6. Approving Settlements:

1.2.6.1. A settlement authority may settle any claim filed for an amount within the delegated settlement authority.

1.2.6.2. A higher settlement authority approves claims (by telephone, if desired) in excess of a delegated authority.

1.2.7 Redelegating Authority. An original settlement authority established by this instruction may redelegate its authority, in writing, to a subordinate judge advocate or civilian attorney in the office, including the claims officer.

1.2.7.1. An original settlement authority established by this instruction may redelegate claims authority to settle personnel claims with an amount claimed of \$5,000 or less to:

1.2.7.1.1. A subordinate paralegal at a seven-level with at least six months of claims experience.

1.2.7.1.2 An Air Force civilian employee (GS-7 or above) with at least six months of claims experience.

1.2.7.2. An original settlement authority established by this instruction may redelegate claims authority to both adjudicate and settle personnel claims with an amount claimed of \$100 or less to any claims examiner.

1.2.7.2.1. For these claims only, the requirement that a second person, acting as a settlement authority, review and approve the claims is waived. However, a settlement authority retains supervisory responsibility for all claims.

1.2.7.3. An original settlement authority established by this instruction may redelegate claims authority to assert or settle carrier claims in any amount to:

1.2.7.3.1. A subordinate paralegal with at least six months of claims experience.

1.2.7.3.2 An Air Force civilian employee with at least six months of claims experience.

1.3 Splitting a Claim. A claim includes all damages that a claimant sustains because of an accident or incident. Even if local law or procedure permits filing a separate or split claim, settlement authorities do not settle or pay a separate or split claim without AFLSA/JACC advance approval. Settlement authorities may split payment for a claim involving property damage and personal injury (see paragraph 2.7), but the claim must be filed as a single claim.

1.4 Responsibilities:

1.4.1 AFLSA/JACC. This agency:

1.4.1.1 Supervises and inspects claims activities through staff assistance visits, special audits, and reviews of statistics from Air Force computerized claims databases.

1.4.1.2 Formulates and implements claims policies and guides subordinate claims offices.

1.4.1.3 Recommends settlement action on claims to:

1.4.1.3.1 TJAG.

1.4.1.3.2 The Secretary of the Air Force.

1.4.1.3.3 DoJ.

1.4.1.4 Works with the DoD, the DoJ, the other military services, and other Government agencies on claims matters.

1.4.1.5 Settles certain initial personnel, Government, hospital and carrier recovery, and Article 139 claims.

1.4.1.6 Asserts affirmative Government, hospital, and carrier recovery claims.

- 1.4.1.7 Settles requests from all bases to reconsider claims.
- 1.4.1.8 Prepares budget estimates for Air Force claims activities and manages the claims budget for payment of claims by AFLSA/JACC and AFLSA/JACT.
- 1.4.1.9 Keeps records in accordance with the records disposition schedules in *AFI 37-133, Volume 2, Disposition of Air Force Records*, on all claims under this instruction for which TJAG is responsible.
- 1.4.1.10 Conducts and supervises claims training activities.
- 1.4.1.11 Manages information from the Armed Forces Claims Information Management System (AFCIMS), a computerized claims database which replaced the Claims Administrative Management Program (CAMP).
- 1.4.1.12 Upon request, AFLSA/JACC will research claims histories in CAMP and AFCIMS.
- 1.4.2 Major Command (MAJCOM) and Numbered Air Force (NAF) SJAs . MAJCOM and NAF SJAs supervise the claims activities of units and organizations under their supervision, including:
 - 1.4.2.1 Conducting staff assistance visits and periodic claims audits.
 - 1.4.2.2 Ensuring that personnel enter data into the appropriate computerized claims database.
 - 1.4.2.3 Supporting claims teams.
 - 1.4.2.3.1 MAJCOMs and NAF SJAs may support claims teams to respond to natural disasters or serious incidents with members assigned to the command. If resources are not available from within the command, they contact AFLSA/JACC for assistance.
- 1.4.3 Base SJAs:
 - 1.4.3.1 Settle personnel, Government, hospital, carrier recovery, and Article 139 claims.
 - 1.4.3.2 Assert affirmative Government and hospital and carrier recovery claims.
 - 1.4.3.3 Investigate incidents giving rise to claims that occur in their geographic claims jurisdiction.
 - 1.4.3.4 Prepare and maintain claims files and records in accordance with the records disposition schedules in *AFI 37-133, Volume 2, Disposition of Air Force Records*.
 - 1.4.3.5 Ensure that their claims offices enter all claims appropriately into the computerized claims databases and enter proper and complete data for each claim.

NOTE: Claims officers can find:

- 1.4.3.5.1 Specific instructions on CAMP in previously published materials about that database (including AFR 112-1, *Claims and Tort Litigation*, Chapter 3).
- 1.4.3.5.2 Specific instructions about AFCIMS in the three volumes of AFM 171-575, *Armed Forces Claims Information Management System* and the AFCIMS Users Guide available on webflite.
- 1.4.3.6 Consult with AFLSA/JACC to determine which base might best investigate and process a particular claim.
- 1.4.3.7 Ensure a fair, efficient quality claims program, according to these principles:
 - 1.4.3.7.1 Maintain the ratio for personnel transportation claims of dollars paid to dollars claimed between the upper and lower variation limits established by AFR 51-5, *Military Legal Affairs*, and know why the ratio might fall outside the limits. Fair adjudication is the hallmark of a quality claims program.
 - 1.4.3.7.2 Aim to process 80% of all personnel claims within 10 days and complete initial settlement of all the claims within 30 days. Quality claims service and adjudication are more important than the rapid processing of claims, but claims should not languish in claims offices.
 - 1.4.3.7.3 Decide to litigate, settle, or close hospital recovery and Government claims within two years of an incident date to allow sufficient time to pursue judicial actions before the statute of limitations expires.
 - 1.4.3.7.4 Close potential hospital recovery claims or assert them as hospital recovery claims within six months of being opened, when possible.
 - 1.4.3.7.5 Settle carrier recovery claims or submit them to AFLSA/JACC for setoff as soon as possible after the 130th day from the date of assertion.
 - 1.4.3.7.6 Periodically review and follow up on open claims by type and date list to ensure timely collection and payment and to prevent statutes of limitation for pro-Government claims from expiring.
 - 1.4.3.7.7 Thoroughly inspect and photograph damaged items in a large claim.
 - 1.4.3.7.8 When transferring claims to AFLSA/JACC, ensure that all payment vouchers are in the file.
- 1.4.4 Claims Officers and Assistant Claims Officers:
 - 1.4.4.1 Claims officers are commissioned officers, designated as judge advocates of the Air Force, or civilian attorneys that the Department of the Air Force employs in the office of an SJA.
 - 1.4.4.2 Assistant claims officers must be:
 - 1.4.4.2.1 An attorney.
 - 1.4.4.2.2 A noncommissioned officer with at least six months of claims experience.
 - 1.4.4.2.3 An Air Force civilian employee (GS-6 or above) with at least six months of claims experience.
 - 1.4.4.3 The SJA of each Air Force base, station, fixed installation, or separate unit appoints, in writing:
 - 1.4.4.3.1 A claims officer.

1.4.4.3.2 Assistant claims officers.

1.4.4.4 The claims officer, under the supervision of the SJA, commander, or other appointing authority, manages all claims activity of the command, organization, or unit.

1.4.4.5 The assistant claims officers perform claims duties under the supervision of the claims officer and manages claims activity in the absence of the claims officer.

1.4.4.6 Attorneys:

1.4.4.6.1 Must handle claims that could result in litigation in Federal court.

1.4.4.6.2 Sign all correspondence to another attorney, including letters to injured parties' attorneys and tortfeasors' attorneys for hospital recovery claims.

1.4.5. Claims Investigations:

1.4.5.1 Commanders of Air Force units investigate incidents and claims arising within the geographic claims jurisdiction of their SJAs. They:

1.4.5.1.1. Refer all information about an accident, incident, or claim to the SJA.

1.4.5.1.2 Assign additional personnel where a major accident or natural disaster causes a large number of claims.

1.4.5.2 The claims officer conducts or supervises each claims investigation.

1.4.5.3 The commanding officer or officer in charge of any other DoD organization investigates incidents within that commander's jurisdiction.

1.4.6 Staffing Responsibilities. Because prompt and efficient claims response is a command responsibility, particularly in major disaster situations, SJAs ensure their claims operations are properly staffed to handle the claims workload.

1.4.7 Specially Assigned Claims Responsibilities:

1.4.7.1 Assigned Claims Statutes. The DoD assigns single-service responsibility for processing and settling claims for and against the United States in certain countries under the Federal Medical Care Recovery Act (FMCRA).

1.4.7.2 Claims Statutes Not Assigned. The DoD does not assign single-service responsibility for the Military Personnel and Civilian Employees' Claims Act.

1.4.7.3 Countries Assigned to the Air Force. The SJA responsible for claims within a geographic area ensures that claims personnel correctly process, settle, or collect all FMCRA claims that the military departments or the DoD generate.

NOTE: See AFI 51-501, *Tort Claims*, for information on the designation of United States sending state and single-service offices for each of the services.

1.4.8 Nonappropriated Fund Instrumentality (NAFI) Claims:

1.4.8.1 NAFIs include entities of the Air Force Morale, Welfare, Recreation, and Services Agency (MWRSA) and the Army and Air Force Exchange Service (AAFES).

1.4.8.2 Claims personnel adjudicate and settle claims for personal property loss or damage incident to NAFI employment under chapter 2.

1.4.8.3 Where appropriate, claims personnel compute liability and make the initial demand upon the carrier, warehouse, or insurer, directing them to send further correspondence to the NAFI paying the claim.

1.4.8.4 Claims personnel adjudicate and settle claims against NAFIs that active-duty Air Force members and Air Force civilian employees submit for loss, damage, or destruction of personal property incident to their service under chapter 2.

1.4.8.5 The settlement authorities for NAFI claims are the same as those stated in paragraph 1.2.2. for all other personnel claims.

1.4.8.6 Claims personnel use only nonappropriated funds to pay claims settled against a NAFI.

1.4.8.7 Claims personnel send collections for loss, damage, or destruction to property under the control of a NAFI for deposit to the appropriate NAFI.

1.4.8.8 Send all AAFES CONUS and all overseas AAFES claims payable or collected for \$2,500 or more to HQ AAFES, Attn: FA-I, PO Box 650428, Dallas TX 75265-0248.

1.4.8.9 Send AAFES overseas claims payable or collected for under \$2,500 to:

1.4.8.9.1 AAFES-PACRIM, ATTN: UNIT 35153, APO AP 96378-5153 for the Pacific region.

1.4.8.9.2 AAFES-EUROPE, ATTN: EUROPEAN ACCOUNTING SUPPORT OFFICE, UNIT 24580, APO AE 09245 for the European region.

1.4.8.10 Send civilian base restaurants and civilian welfare NAFI claims for payment or collection of more than \$100 to Army and Air Force Civilian Welfare Fund, 21 ARMY PENTAGON, WASHINGTON DC 20310-0021, and for \$100 or less to the local NAFI which gave rise to the claim.

1.4.8.11 Send all other NAFI claims for payment or collection of more than \$50 to HQ AFVA/SVXCC, 10100 Reunion Place, Suite 502, San Antonio, TX 78216-4138, and for \$50 or less to the local NAFI which gave rise to the claim.

1.4.9 DoD Dependent Schools (DoDDS) Employee Claims. The military service of the installation commander providing logistics support and administrative support to the DoDDS employee or teacher settles their claims or claims caused by their activities.

1.5. Investigating and Processing Claims:

1.5.1 Prohibited Acts:

1.5.1.1 Refusing to Accept Claims. Even if a claim is incomplete, claims personnel:

1.5.1.1.1 Accept the claim.

1.5.1.1.2 Advise the claimant in writing that the claim is incomplete.

1.5.1.1.3 List the required information in the letter.

1.5.1.1.4 State that if the information is not received within a stated reasonable time, the settlement authority will adjudicate and settle the claim without the additional information.

1.5.1.2 Prejudging Claims. Before the settlement authority acts, claims personnel do not:

1.5.1.2.1 Give any opinion to the claimant about approval or disapproval of the claim.

1.5.1.2.2 Reveal recommendations that a claims authority makes.

1.5.1.3 Conflicting Interests. Air Force personnel do not:

1.5.1.3.1 Represent or aid any claimant, or potential claimant, in a claim against the United States.

NOTE: This prohibition does not include the assistance that claims officers and legal personnel provide to claimants as part of their official duties.

1.5.1.3.2 Receive any gift, financial reward, share, or interest from any claim.

EXCEPTION: Claims personnel may receive benefits from their own personal claims.

1.5.2 Assisting Claimants. At the request of the claimant, claims personnel may:

1.5.2.1 Provide advice about the proper procedures for filing a claim and help assemble evidence that the claimant provides.

1.5.2.2 Return evidence originally submitted (after the claims office has made copies).

1.5.2.3 Furnish information or evidence obtained during the course of a claims investigation.

EXCEPTION: Claims personnel do not provide claims information or evidence that is otherwise prohibited.

1.5.3 Requesting Advisory Opinions. Claims personnel may request a written advisory opinion on any matter within the claims authority of AFLSA/JACC.

1.5.4 Disclosing Information and Releasing Records:

1.5.4.1 Claims personnel consult and apply the Freedom of Information Act and the Privacy Act, as implemented by Air Force instructions, before releasing records.

1.5.4.2 Claims personnel honor a written or oral request by a claimant for a copy of all documentation originally submitted.

1.5.4.3 If the claimant makes a request specifically under the Freedom of Information Act or the Privacy Act for a complete copy of their own file, claims personnel normally release all the material.

EXCEPTION: Claims personnel do not release attorney work products.

1.5.4.4 Claims personnel coordinate with AFLSA/JACC before releasing:

1.5.4.4.1 Legal memoranda that attorneys and paralegals have prepared containing opinions, conclusions, or recommendations on the disposition of a claim.

1.5.4.4.2 Lawyers' notes of witnesses' interviews.

1.5.4.4.3 When the Privacy Act does not apply, other statements or materials that personnel have assembled in contemplation of litigation or prepared for internal Air Force use.

1.5.4.5 Claims offices release:

1.5.4.5.1 Copies of orders.

1.5.4.5.2 Photographs.

1.5.4.5.3 Engineers' or repairmen's reports (with opinions withheld).

1.5.4.5.4 Other factual materials upon request.

1.5.4.6 Claims offices authorize personnel to release medical records in hospital recovery cases, as discussed in chapter 5.

1.5.4.7 Claims offices report any incident of unauthorized release or possession of any part of an Air Force claims file to AFLSA/JACC.

NOTE: For more information, see paragraph 1.5.7. RCS: HAF-JA (AR) 8302.

1.5.5 Paying Approved Claims.

1.5.5.1 Claims personnel when paying approved claims prepare vouchers or other payment documents in sufficient copies to:

1.5.5.1.1 Satisfy the requirements of the local accounting and finance office (AFO) or the GAO.

1.5.5.1.2 Provide a suspense copy for the SJA or claims officer to use to verify the correctness of the amount paid or collected when the voucher is returned from the AFO.

1.5.5.2 The SJA or the claims officer reconciles the documentation of the paid or collected claim the AFO returns against the suspense copy to ensure that the AFO paid or collected the amount authorized.

1.5.5.3 Claims personnel place a copy of the payment or collection documents in the respective claim file.

1.5.5.3.1 If AFO is unable to comply with their requirement to provide individual comeback vouchers showing individual claims were paid, notify AFLSA/JACC. Claims personnel must ensure that some documentation of payment by AFO is included in the claims file showing AFO voucher number, claim number, claimant name and address, and amount paid.

1.5.5.4 Do not send or give checks to anyone, except the payee or authorized agent, without written permission from the payee.

1.5.5.5 Where appropriate, claims personnel give a check to an Air Force representative for temporary custody and delivery to the payee or authorized agent.

1.5.5.6 Every month, the SJA or claims officer must reconcile the financial portion of the claims funds log (a locally maintained record of obligations) with the claims account at the AFO.

1.5.5.7 The SJA or claims officer signs and dates the reconciled log, a copy, or separate document kept with the log.

1.5.5.8 Two-Person Policy. When possible, one person investigates a claim, prepares the report, and recommends the action. The settlement authority, a second individual, then approves or disapproves the recommended action.

EXCEPTION: If not possible because of staffing, one person with the authority to act as a claims officer and a settlement authority may investigate and act upon a claim. Use this practice sparingly. In addition, see paragraph 1.2.7.2.

1.5.5.8.1 Because separating claims processing responsibilities removes the possibility of fraud and abuse and prevents a perceived lack of impartiality, the settlement authority avoids delegating authority to only one person in the office to process the claim from investigation through approval.

1.5.5.9 Reporting Serious or Unusual Incidents. When a serious or unusual incident involving claims occurs, the base SJA uses the JAG Accident Incident Report (RCS: HAF-JA[AR] 8302) to report the incident to the supervisory GCM, MAJCOM, and either AFLSA/JACC or AFLSA/ JACT.

1.5.5.9.1 The base SJA reports aviation accidents and other incidents involving potential tort liability to AFLSA/ JACT. Reportable incidents also include:

1.5.5.9.2 Severe weather disasters, floods, fires, and other incidents involving loss of or damage to personal property, which require expert advice, assistance, or numerous emergency partial payments are reported to AFLSA/JACC.

1.5.5.9.3 Reportable incidents also include:

1.5.5.9.3.1 Incidents and (UCMJ, DoD, or other) investigations of fraud, waste or abuse in claims.

1.5.5.9.3.2 Incidents with claims aspects that may receive widespread media coverage.

1.5.5.9.3.3 Base closures or other actions requiring claims jurisdiction transfers or jurisdiction arrangements different from the maps that AFLSA/JACC has distributed to the field.

1.5.5.9.4 The SJA makes reports using the quickest means possible and follows up with a written report within 24 hours. The SJA includes:

1.5.5.9.4.1 An estimate of the number of potential claims and the amount of damage.

1.5.5.9.4.2 Information on any claims team response to the scene and the estimated or actual arrival time.

1.5.5.9.4.3 Request for parent command, other command, or AFLSA/JACC assistance, if necessary.

1.5.5.9.4.4 Any other pertinent information.

NOTE: This reporting requirement is designated emergency status code C-3. Continue reporting during emergency conditions, delayed precedence. Submit data requirements as prescribed, but they may be delayed to allow the submission of higher precedence reports. Continue reporting during MINIMIZE.

1.6 Incorporated Documents. The following documents are incorporated by reference in this instruction and are binding on all Air Force claims settlement authorities and claims personnel. The General Claims Division separately distributes them to claims offices when necessary or when revisions occur. File these documents behind this instruction.

1.6.1 Allowance List - Depreciation Guide (a joint claims service publication previously found in AFR 112-1, table 6-1).

1.6.2 Military-Industry Memorandum of Understanding on Loss and Damage Rules (1 Apr 83).

1.6.3 Military-Industry Memorandum of Understanding on Loss and Damage Rules (1 Jan 92).

1.6.4 Joint Military-Industry Memorandum of Understanding on Salvage for Code 1 and Code 2 Shipments.

1.6.5 Joint Military-Industry Agreement on Carrier Recovery Claims \$25 and Under.

1.6.6 Joint Military-Industry Table of Weights.

1.6.7 MTMC Regional Storage Management Office (RSMO) map.

1.6.8 Sample letter formats.

1.6.9 The Claims Adjudicator's Handbook.

1.7 Claims Clips. The General Claims Division publishes a monthly "Claims Clips" bulletin containing guidance on implementing this instruction. The Claims Clips are binding on all Air Force claims settlement authorities and claims personnel.

1.8 Exceptions to This Instruction. The Chief, General Claims Division, may interpret and grant exceptions to rules contained in this instruction when it is in the best interest of the Air Force.

Chapter 2

PERSONNEL CLAIMS UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT

Section A—General

2.1 Scope. Claims personnel follow these rules for settling claims of active-duty Air Force members and Air Force civilian employees for loss, damage, or destruction of personal property incident to their service.

2.2 Authority. The Military Personnel and Civilian Employees' Claims Act (the Personnel Claims Act), 31 U.S.C. 3701, 3721, is the authority for settling claims under this chapter (referred to as personnel claims).

2.3 Purpose. The Personnel Claims Act is a gratuitous payment statute. It does not provide insurance coverage and is not designed to make the United States a total insurer of the personal property of claimants. Payment does not depend on tort liability or Government fault. Congress instead determined to lessen the hardships of military life by providing prompt and fair payment for certain types of property loss or damage, especially those caused by frequent moves. The Air Force aims, within approved guidelines, to compensate active-duty members and civilian employees for property loss or damage to the maximum extent possible.

2.4 Maximum Payment. In accordance with 31 U.S.C. 3721b, the maximum payment that settlement authorities can make under the Personnel Claims Act for loss or damage resulting from a single incident is \$40,000.

2.4.1 Settlement authorities cannot waive this statutory limitation.

EXCEPTION: An amendment to 31 U.S.C. 3721b(1) allows payment of more than \$40,000, but not more than \$100,000, if the claim arose from an emergency evacuation or from extraordinary circumstances. Base settlement authorities are not authorized to settle claims for more than of \$40,000. If the adjudicated value of a claim exceeds \$40,000, the base settlement authority pays the claimant the \$40,000 for his claim, and then forwards the claim to AFLSA/JACC for a determination as to whether the claim arose from an emergency evacuation or extraordinary circumstance.

2.4.2 Title 10, United States Code, Section 2738, allows a service secretary to reimburse a service member up to \$100,000 for the loss of household effects sustained during a change of permanent station when the secretary determines the loss was caused by hostile action by a military force. The reimbursement covers the losses not reimbursed by insurance or the Personnel Claims Act. Although the effective date of the section is 5 October 1994, it applies to losses incurred after 30 June 1990. These claims are processed under the procedures for Military Claims Act.

2.5 Finality. In accordance with 31 U.S.C. 3721k, Air Force administrative settlement of personnel claims is final and conclusive.

2.5.1 Claimants do not have a right to sue.

2.6 Paying Claims Under Other Claims Statutes. Settlement authorities pay any claim payable under the Personnel Claims Act, but also payable under other claims statutes (such as the Military Claims Act or the Federal Tort Claims Act), in accordance with this chapter.

2.6.1 If a claim is not payable under the Personnel Claims Act and this chapter, settlement authorities:

2.6.1.1 consider it under any other claims statute that applies before disapproving it.

2.6.1.2 If appropriate, investigate and settle the claim in accordance with the applicable statute.

2.6.2 If a claim is cognizable (that is, warrants consideration), but not payable under either the Personnel Claims Act or another claims statute, settlement authorities cite both statutes as the basis for denial in the settlement letter to the claimant.

2.7 Handling Personal Injury Claims. In certain cases, if a claim alleges both property damage payable under this chapter and personal injury cognizable under a tort claim statute, settlement authorities may find it appropriate to split the property damage from the tort claim and pay it as a personnel claim.

2.8 Handling Claims Resulting From Negligent Acts of Contractor Personnel. Refer personnel claims that result primarily from the fault or negligence of a Government contractor to the contractor or its insurer, through the base contracting officer, for settlement.

EXCEPTION: Claims personnel do not refer claims resulting from the fault or negligence of a common carrier or a warehouse firm to the contractor or its insurer.

2.8.1 The claims office makes every effort to assist the claimant in obtaining payment from the contractor or its insurer.

2.8.1.1 If the contractor does not immediately resolve the matter, the claims office coordinates with the contracting officer to setoff money due under the contract and pay it to the claimant under the terms of the contract.

2.8.2 If the parties involved cannot resolve the matter without unacceptable delay, settlement authorities may settle the claim under this chapter, if it otherwise qualifies for payment as a personnel claim.

2.8.2.1 Authorities pursue the contractor under the terms of the contract to recover the claimant's award.

2.9 Handling Claims by Nonappropriated Fund Personnel. Although the Personnel Claims Act does not provide for paying the claims of NAFI employees, settlement authorities adjudicate and settle personnel claims of such employees under this chapter, but pay them from nonappropriated funds. (See paragraph 1.4.8.)

2.10 Assessing Claims. Before paying for the loss, damage, or destruction of property, the settlement authority verifies that:

2.10.1 A valid claim exists (section B).

2.10.2 The claimant filed the claim in a timely manner (section B).

2.10.3 The claimant is a proper claimant (section C).

2.10.4 The claim is for payable, tangible personal property and associated expenses (section D).

2.10.5 The loss or damage was incident to the claimant's service (section E).

2.10.6 The claim is not listed as one not payable (section F).

2.10.7 The type of property claimed and the amount or quantity were reasonable or useful under the attendant circumstances (section G).

2.10.8 The evidence proves ownership or possession, the value of the property, and its loss, damage, or destruction (section H).

2.10.9 The negligence or wrongful act of the claimant or the claimant's agent does not prevent payment (section I).

2.10.10 Claims personnel have correctly adjudicated the amount allowable (section J).

2.10.11 Claims personnel have reduced the amount allowable to reflect applicable private insurance recovery (section K).

2.10.12 For personnel transportation claims, claims personnel have reduced the amount allowable to reflect lost potential carrier recovery (section L).

2.10.13 For personnel transportation claims for which the claimant purchased increased protection, claims personnel have followed correct procedures (section M).

2.10.14 For personnel transportation claims, that the claimant has substantiated tender of the property to the carrier.

Section B—Claims, Filing, and Time Limits

2.11 What Constitutes a Claim. A claim is a written and signed demand against the United States or the Air Force for a sum certain (specified amount of money), even if the claimant provides no supporting documentation.

2.12 Using Claim Forms. Claimants submit claims on DD Form 1842, **Claim for Loss of or Damage to Personal Property Incident to Service**, and associated DD Form 1844, **List of Property and Claims Analysis Chart**.

2.12.1 Claims personnel accept as a claim any written, signed demand containing a sum certain.

2.13 Amending a Claim. A claimant may amend a claim at any time before the statute of limitations expires by submitting a written and signed demand for specified payment for additional items of personal property lost, damaged, or destroyed as a result of the same incident.

2.13.1 An increase only in the dollar amount claimed for an item is not an amendment, and claimants may request such increases, even after the statute of limitations expires.

2.14 Filing Separate Claims. A claimant files a separate claim for each incident that causes loss or damage.

2.14.1 For personnel transportation claims, claimants file a separate claim for each shipment, but not for multiple deliveries from the same shipment.

2.15 Filing (Presenting) a Claim. A claimant has officially filed a claim when an active Federal military installation receives it.

2.15.1 Receipt by a National Guard or Reserve unit or by a Federal agency outside the DoD does not constitute a proper filing.

2.15.2 The act of mailing a claim does not constitute filing.

2.15.3 Claimants may file a claim by facsimile (fax).

2.15.3.1 Claims personnel accept the claimant's or agent's signature as genuine.

EXCEPTION: Evidence exists to cause the claims personnel to question the signature.

2.15.3.2 A claimant has officially delivered a faxed claim when it prints out at a facsimile machine at an active Federal military installation.

2.16 Where to File a Claim.

2.16.1 A claimant who performs his duty at an Air Force installation files a claim with the claims office there. A claimant who does not perform duty at an Air Force installation with a claims office files a claim at:

2.16.1.1 The nearest active Air Force installation claims office.

2.16.1.2 The claims office nearest to the point where the loss or damage occurred.

2.16.1.3 The claims office at which claims personnel can most conveniently investigate the facts and circumstances.

2.16.2 If the claim is not within the claims jurisdiction of the receiving office, the receiving office transfers it to the appropriate office.

2.16.3 Personnel assigned to duty in foreign locations, such as embassies, file claims at the nearest active Air Force installation claims office.

2.16.3.1 If there is no Air Force claims office in a foreign country, file the claim with the defense attach[eacute] or military assistance advisory group personnel authorized to receive claims.

2.16.3.2 Claimants unable to obtain adequate assistance in filing a claim may contact the nearest Air Force SJA or the General Claims Division.

2.16.4 National Guard and Reserve personnel do not file claims with their unit, but with the nearest active Air Force installation claims office.

2.16.5 If direct filing is impractical, the claimant may submit a claim to the claims office of any active military installation, which sends the claim to the appropriate Air Force claims office for processing.

2.17 Time Prescribed for Filing. In accordance with the Personnel Claims Act, 31 U.S.C. 3721g, settlement authorities pay no claim under this chapter filed after the two-year statute of limitations has expired.

2.17.1 Authorities may not waive the statute of limitations, even if the claimant alleges or proves erroneous advice by claims personnel.

2.17.2 The two-year period for filing a claim begins:

2.17.2.1 At the time of the incident causing the loss or damage.

2.17.2.2 At the time when the claimant discovered or should reasonably have discovered the loss or damage.

2.17.2.3 For transportation loss or damage, the two-year period begins on the date of delivery.

2.17.2.4 For loss or damage from storage at Government expense, the two-year period begins when:

2.17.2.4.1 The claimant receives notification of a total storage loss.

2.17.2.4.2 The claimant is able to assess the extent of the loss or damage.

NOTE: Normally, this assessment occurs when a contractor delivers the goods out of storage.

2.17.2.4.3 The claimant's storage entitlement at Government expense expires.

2.17.2.4.4 A contractor at Government expense delivers the claimant's personal property out of storage at Government expense, even if the claimant's storage entitlement has already expired.

2.17.3 The two-year statute of limitations may be extended if the claimant shows good cause for delaying filing the claim and if the two-year period began:

2.17.3.1 Within two years before the United States enters a war or armed conflict.

2.17.3.2 During a war or an armed conflict involving the United States.

2.17.4 Any extension of the two-year period expires two years after the earlier of:

2.17.4.1 The end of the United States' participation in the war or armed conflict.

2.17.4.2 The end of any period of captivity.

2.17.4.3 The date the good cause for delaying filing the claim ceased to exist.

2.17.5 In computing the two years, claims personnel exclude the first day (the incident date) and include the last day (the day the claim was received).

EXCEPTION: If the last day falls on a non-workday (a Saturday, Sunday, or legal holiday), claims personnel extend the two years to the next workday.

Section C—Proper Claimants

2.18 Who May File a Claim. These individuals may file a claim:

- 2.18.1 A proper claimant (para 2.19).
- 2.18.2 An authorized agent or legal representative for a proper claimant (para 2.23).
- 2.18.3 A survivor of a deceased proper claimant (para 2.24).

2.19 Defining Proper Claimants. These individuals qualify as proper claimants:

- 2.19.1 Active-duty Air Force military personnel.
- 2.19.2 Retired or separated Air Force military personnel who suffer loss or damage resulting from the last entitled storage or movement of their personal property.
- 2.19.3 Air Force Reserve (AFRES) and Air National Guard (ANG) personnel for an incident that occurs while they are performing federally funded active duty, inactive duty for training, or full-time National Guard duty.
- 2.19.4 ANG technicians under 32 U.S.C. 709.
- 2.19.5 Civilian employees whom the Air Force pays from appropriated funds.
- 2.19.6 Civilian employees whom the Air Force pays from nonappropriated funds.
- 2.19.6.1 Claims personnel process the claims of these employees, but pay them from nonappropriated funds. (See paragraphs 2.9 and 1.4.8.)
- 2.19.7 Civilian employees of the Defense Commissary Agency (DeCA) who work on an Air Force installation.
- 2.19.8 DoD Dependent School (DoDDS) teachers and administrative personnel employed at schools on or serviced by Air Force installations. (See paragraph 1.4.9.)
- 2.19.9 AFROTC cadets while traveling at Government expense or on active duty for summer training.
- 2.19.10 US Air Force Academy cadets.
- 2.19.11 Any person who was in any of the above categories when the two-year period for filing a claim began.

2.20 Claims by Members or Employees of Other Armed Forces or Agencies:

- 2.20.1 Although members or employees of the other Armed Forces may file a claim with an Air Force claims office, the service concerned actually adjudicates and settles the claims of other service personnel.
 - 2.20.1.1 The receiving Air Force claims office:
 - 2.20.1.1.1 Processes such claims short of adjudication, to include assembling a file containing the required claim form and supporting documents.
 - 2.20.1.1.2 Sends such claims to the nearest legal office or claims office of the service concerned.
 - 2.20.1.1.3 Sends Marine Corps claims directly to the Commandant of the Marine Corps (MHP-40), Headquarters, United States Marine Corps, Washington DC 20380-0001.
 - 2.20.1.2 By agreement among the services, the gaining service processes a transportation claim from a civilian employee transferring to that service.
- 2.20.2 The Army worldwide adjudicates and settles the claims of DoD civilian employees not assigned to the Army, Air Force, or Navy (DoDD 5515.10).
- 2.20.3 The services have signed a memorandum of understanding that the service controlling the base where a DeCA claimant is assigned adjudicates and settles that claimant's personnel claims.
- 2.20.4 Claims offices throughout the Armed Forces treat claims by employees of other Federal agencies the same as claims by members or employees of other services by sending them for adjudication and settlement to the headquarters of the claimant's agency.

2.21 Assessing Family Situations:

- 2.21.1 Military members married to military members are each proper claimants.
 - 2.21.1.1 Married military couples may file claims for their separate or jointly owned property, but must ensure that no duplication exists between the claims.
 - 2.21.1.2 If no duplication exists, each member may receive up to the statutory maximum.
- 2.21.2 Ex-family members, such as former spouses, are not proper claimants, even if they receive property by court order.
 - 2.21.2.1 Former spouses and other ex-family members may file a claim only as a proper claimant's agent.

2.22 Defining Those Who Are Not Proper Claimants. Persons, organizations, or groups that do not fall into any of the categories in paragraph 2.19 are not proper claimants, and claims offices must reject their claims. Such improper claimants include:

- 2.22.1 Insurers, subrogees, and assignees of proper claimants and other similar third parties.

- 2.22.2 Lien holders and conditional vendors.
- 2.22.3 Employees of Government contractors.
- 2.22.4 Independent contractors.
- 2.22.5 Red Cross and United Service Organization (USO) personnel.
- 2.22.6 Military personnel of foreign governments.

2.23 Claims Filed by Agents. The authorized agent of a proper claimant may file on behalf of the claimant if the agent provides a power of attorney, or in the case of a spouse, a letter of authorization specifically granting permission to file a claim.

- 2.23.1 Claims offices:
 - 2.23.1.1 File a copy of agent authorizations.
 - 2.23.1.2 Make payments in the claimant's name in care of the agent.
 - 2.23.1.3 Send the payment to the address that the agent indicates.
- 2.23.2 In some cases, a legal representative (with a court order) may also file a claim for a proper claimant.
- 2.23.3 Certain survivors of a deceased proper claimant may file the claim.
 - 2.23.3.1 Settlement authorities rank survivors in this order, from highest to lowest priority:
 - 2.23.3.1.1 Spouse.
 - 2.23.3.1.2 Child or children.
 - 2.23.3.1.3 Father or mother, or both.
 - 2.23.3.1.4 Brother or sister, or both.
 - 2.23.3.2 A survivor lower in order must show that no survivor exists higher in order.
 - 2.23.3.3 If two or more people are equal in order, the first claim filed eliminates the right of the others.
 - 2.23.3.4 The estate of a deceased proper claimant is not a proper claimant, nor is an executor or personal representative.

Section D—Legitimate Property and Expense Claims

2.24 Ownership and Custody of Property. Settlement authorities pay claims for property owned by the claimant and immediate family members residing with the claimant who legally qualify as dependents.

2.25 Tangible Personal Property. The Personnel Claims Act only authorizes payment for loss of or damage to personal property. Personal property is any type of tangible property that is not real property.

- 2.25.1 In addition, to tangible personal property, settlement authorities may pay for certain expenses associated with:
 - 2.25.1.1 The repair or replacement of personal property.
 - 2.25.1.2 Fees for obtaining certain documents.
- 2.25.2 However, settlement authorities may not pay for incidental expenses or consequential damages connected with the loss or damage of personal property, including:
 - 2.25.2.1 Costs of preparing a claim.
 - 2.25.2.2 Inconvenience expenses.
 - 2.25.2.3 Financial losses due to canceled orders.
 - 2.25.2.4 A claimant's own labor charges.

2.26 Real Property. Real property includes land and whatever is erected or growing upon or affixed to land. Settlement authorities do not pay for damage to real property.

- 2.2.7 Intangible Property.
 - 2.27.1 Settlement authorities do not pay for the loss or damage of intangible property; that is, property that has no outwardly apparent and marketable value, but is merely representative of value, such as:
 - 2.27.1.1 Non-negotiable stock certificates.
 - 2.27.1.2 Promissory notes and bonds.
 - 2.27.1.3 Bills of lading and warehouse receipts.
 - 2.27.1.4 Baggage checks.
 - 2.27.1.5 Bank books.
 - 2.27.1.6 Unusable airline tickets.
 - 2.27.1.7 Art objects or documents that the claimant made or wrote.

EXCEPTION: Pay for the value of the materials used in or for any independently established marketable value for the object or document.

- 2.27.2 Individuals who lose such documents still retain the property rights.

2.27.3 Settlement authorities do not pay for the loss or damage of an intangible but negotiable instrument, such as a check, if a bank can reissue the instrument or otherwise provide payment.

EXCEPTION: Settlement authorities may cover such a loss in an emergency.

2.28 Repair or Replacement Expenses.

2.28.1 Settlement authorities pay certain expenses incident to repair or replacement, including:

2.28.1.1 Estimate fees.

2.28.1.2 Shipping and handling.

2.28.1.3 Pickup and delivery.

2.28.1.4 Sales taxes.

2.28.2 Estimate Fees. Settlement authorities pay only for nonrefundable estimate fees, those for which a claimant will not receive credit toward payment for the completion of repairs.

2.28.2.1 Do not pay for estimate fees for which the claimant will receive credit toward completion of repairs, even if the claimant chooses not to have the repairs done.

2.28.2.2 Settlement authorities do not pay for appraisals, which (as distinguished from repair estimates) involve valuations by a person who is not in the business of selling or repairing that type of property.

EXCEPTION: Settlement authorities pay for an appraisal when the claims office requires it to adjudicate the claim.

2.28.3 Shipping and Handling, Pickup and Delivery, and Sales Taxes. Settlement authorities pay when individuals make claims for:

2.28.3.1 Costs to replace property by mail.

2.28.3.2 Costs of transporting property to or from a repair shop.

2.28.3.3 Sales tax.

2.28.3.3.1 Settlement authorities limit payment for these expenses to \$100 total until the claimant submits proof of actual payment of the expenses.

2.28.3.3.2 The settlement authority may waive the \$100 limitation in meritorious cases.

2.28.4 Fees for Obtaining Certain Documents. Settlement authorities pay fees for replacing birth certificates, marriage certificates, college diplomas, passports, or similar documents, if an individual loses or damages the original or a certified copy incident to service.

2.28.4.1 Pay only for replacing documents with a raised seal that are official in nature.

2.28.4.2 Do not pay for:

2.28.4.2.1 Documents that are representative of value, such as stock certificates.

2.28.4.2.2 Personal letters or records.

Section E—Payable Claims (Loss or Damage Incident to Service)

2.29 Definition. The Personnel Claims Act limits payment to loss or damage that is “incident to service,” a broad term that covers such aspects of military living as frequent movements in response to orders, assignment to quarters, and duty in foreign countries.

2.30 Civilian Employees. For personnel transportation claims, “incident to service” means the same for civilian employees as for military members. However with one exception (see below), the Air Force does not consider most other types of personnel claims or loss or damage unconnected with the performance of duty (particularly loss or damage occurring outside duty hours and away from the workplace) as incident to a civilian employee’s service, even though it might consider the same loss or damage to be incident to a military member’s service.

EXCEPTION: When civilian employees are assigned with the Air Force outside the United States, including quarters in US territories and possessions, settlement authorities pay for loss or damage from fire, flood, hurricane, or other unusual occurrence, or from theft or vandalism that occurs at quarters, including authorized off-base quarters, or other authorized places. See paragraph 2.33.3 special criteria that apply to claims of civilian employees outside the United States.

2.31 Government-sponsored Transportation or Storage. Settlement authorities pay for property loss or damage incident to transportation or storage at Government expense, whether the property was in the possession of the Government, carrier, storage warehouse, or other Government contractor.

2.31.1 Do not pay claims for loss or damage occurring to property left in storage at private expense after Government entitlement to storage ends.

2.31.1.1 When a claimant is entitled to file a claim for delivery out of storage at Government expense after a period of both Government storage and storage at the claimant’s expense, attribute any loss or damage to storage at Government expense.

EXCEPTION: Settlement authorities may attribute the loss or damage otherwise, if specific evidence exists of when the loss or damage occurred.

2.31.2 Claimants receive an incentive payment for a “do-it-yourself” (DITY) move but do their own packing, loading, transporting, off-loading, and unpacking of the property.

2.31.2.1 Settlement authorities pay only for loss or damage to property during a DITY move resulting from events outside claimant’s control.

2.31.3 Settlement authorities pay for shipment-related loss or damage to mobile homes shipped at Government expense. (See section P)

2.32 Travel. Settlement authorities pay for loss of or damage to luggage or hand-carried property when the claimant is traveling in a public, private, or military vessel, vehicle, aircraft, or other conveyance during military duty or in compliance with travel orders.

2.32.1 Pay for incidents that occur while the claimant is awaiting transportation, such as the theft of luggage at an airline terminal.

NOTE: As a general rule, the Air Force considers travel to be in the performance of military duty, if the Government reimburses the claimant for it.

2.32.2 Pay for loss of or damage to checked luggage or hand-carried property in permissive TDY cases only when the claimant is traveling on a military conveyance.

2.32.3 Pay for loss of or damage to checked luggage or hand-carried property, if the claimant or the claimant’s dependents are traveling on a military conveyance in a space available status using military leave orders.

2.32.4 Pay for loss of or damage to property that the claimant or the claimant’s dependents moved, if they were traveling PCS under orders to a new duty station and did not deviate from a direct route.

NOTE: The dependents need not be traveling with the claimant.

2.33 Quarters and Other Authorized Places. Settlement authorities pay for loss or damage from fire, flood, hurricane, or other unusual occurrence, or from theft or vandalism that occurs at quarters or other authorized places.

2.33.1 Pay for loss or damage in Government-owned or Government-leased housing assigned or otherwise provided to the claimant.

2.33.2 The Personnel Claims Act specifically provides that within the United States, loss or damage from quarters that the Government does not assign or provide are not payable.

2.33.3 Outside the United States, pay for loss or damage in authorized off-base quarters, as well as assigned quarters, including quarters in US territories and possessions.

EXCEPTION: Settlement authorities do not pay when the claimant is a local inhabitant.

2.33.3.1 Consider an overseas civilian employee, who is not a US citizen, to be a local inhabitant.

2.33.3.2 Consider a US citizen, who becomes a civilian employee while residing abroad or after moving abroad to reside with a foreign spouse or relatives, to be a local inhabitant.

2.33.4 Pay for loss or damage in temporary quarters anywhere, including hotels, motels, guest houses, dormitories, and billeting rooms that the claimant occupies during temporary duty (TDY).

2.33.4.1 Pay claimants in PCS status, on permissive TDY, or on leave only for loss or damage at on-base billeting quarters.

2.33.5 Pay for loss or damage at other authorized places, such as:

2.33.5.1 Any place on a military installation.

2.33.5.2 Any office, building, recreation area, or real estate that the Air Force or any other DoD element uses or controls.

2.33.5.3 Any other place that the Government authorizes or apparently authorizes for receiving or storing personal property.

2.34 Extraordinary Hazards. Because the Personnel Claims Act is not a substitute for insurance, settlement authorities pay for loss or damage at quarters and other authorized places only if caused by fire, flood, hurricane, or other unusual occurrence or by theft or vandalism. In these cases, the Personnel Claims Act only provides protection from extraordinary hazards (violent acts of nature and other events affecting the military installation that other members and employees do not face to the same degree, and for the intentional torts of theft and vandalism, which might or might not have a strong service connection).

2.34.1 Pay for loss or damage caused by fires, regardless of whether the fire was caused by an act of God or by a human agency, such as faulty wiring or arson.

EXCEPTION: Do not pay for fire loss or damage caused by the wrongful or negligent conduct of the claimant.

2.34.1.1 Potential claimants must maintain their quarters and supervise small children to minimize the risk of fire.

2.34.1.2 Settlement authorities are not bound by a police report or report of survey stating that the claimant was not negligent, but must reach an independent conclusion based on all the evidence.

NOTE: See paragraph 2.61. for fires caused by the negligent conduct of a claimant's family members or house guests. See paragraph 2.7 if personal injury also results from fire.

2.34.2 Pay for loss or damage due to flooding caused by weather conditions or burst pipes in quarters.

2.34.3 In deciding whether hazards are outside the normal risks of day-to-day living and working and, therefore, are unusual occurrences, settlement authorities consider two types of events (not continuous conditions):

2.34.3.1 Those of a very unusual nature.

2.34.3.2 Those of a common nature that occur to an unexpected degree of severity.

2.34.3.2.1 Settlement authorities pay for loss or damage from:

2.34.3.2.1.1 Violent natural events, such as hurricanes, typhoons, tornadoes, earthquakes, or volcanic eruptions, that are unanticipated and over which no one has any control.

2.34.3.2.1.2 Storms of extreme intensity that cause damage to an unexpected degree of severity.

2.34.3.2.1.3 Power surges affecting electrical or electronic devices, when lightning has actually struck the claimant's residence or objects outside the residence, such as the transformer box.

2.34.3.2.1.4 Power surges affecting electrical or electronic devices, when power company records or similar evidence show that a particular residence or group of residences was subjected to a power surge of unusual intensity.

2.34.3.2.1.5 Power outages of enough length to spoil food.

2.34.3.2.1.6 The falling of a large tree or a significant portion of one.

2.34.3.2.1.7 A suddenly occurring, substantial defect in a building.

2.34.3.2.1.8 Infestation by termites, other insects, or rodents, especially if the installation is aware of the problem and has not taken effective action to correct it. (See paragraph 2.34.3.2.)

2.34.3.3 Settlement authorities do not pay for damage or loss from:

2.34.3.3.1 Routine or regularly occurring storms.

2.34.3.3.2 Ice and snow sliding off a roof onto a vehicle or object.

2.34.3.3.3 Falling branches or sap settling on vehicles.

2.34.3.3.4 Minor deficiencies in buildings.

2.34.3.3.5 Infestation by termites, other insects, or rodents in areas where such infestation is common, well-known, and individuals can take effective precautions. (See paragraph 2.34.3.1.)

2.34.3.3.6 Vehicle collisions, including those with deer or other animals and objects such as shopping carts.

2.34.3.3.7 Gradual deterioration of furniture and other items due to climatic conditions, such as cracking or shrinkage of wooden panels in an extremely dry area.

2.34.3.4 The following situations do not warrant payment as unusual occurrences, but should instead be investigated as torts:

2.34.3.4.1 Spotting, etching, discoloration, or other damage allegedly caused by airborne chemicals or other discharges from Air Force or contractor activities. **EXCEPTION:** Consider the discharge to be an unusual occurrence only when investigation reveals that unusual weather conditions caused it.

2.34.3.4.2 Paint overspray that the Government causes through negligence.

NOTE: When contractor personnel cause the overspray, settlement authorities follow paragraph 2.8.

2.34.3.4.3 Balls "escaping" from ball fields and golf courses and rocks thrown up by lawn mowers, weed-eaters, or vehicles.

2.34.3.4.4 Damage to moving vehicles caused by defects or foreign objects in the roadway.

2.34.4 Theft. Settlement authorities pay for the intentional, wrongful taking of someone else's property, including theft of or from vehicles, that occurs at quarters or at other authorized places (see paragraph 2.33.4), during official duty or TDY.

2.34.4.1 Settlement authorities:

2.34.4.1.1 Pay for the theft of property from locked gymnasium, golf course, or bowling alley lockers, or other lockers at similar, authorized places.

2.34.4.1.2 Pay only for items and amounts that are reasonable under the circumstances.

2.34.4.1.3 Limit payments to \$100 for loss of cash and \$250 for cash and other items combined.

EXCEPTION: Settlement authorities may waive this limitation in meritorious cases.

2.34.4.1.4 Pay personnel claims for locker theft from claims funds, rather than nonappropriated funds.

EXCEPTION: Settlement authorities use nonappropriated funds, if the nonappropriated fund activity was negligent.

2.34.4.2 Settlement authorities pay when evidence of a larceny, burglary, or housebreaking exists.

2.34.4.2.1 A claimant who fails to report a theft immediately or as soon as practical may fail to prove that a theft occurred.

2.34.4.3 Settlement authorities do not deny a claim because a thief has been identified. However, they do suspend payment if a good chance exists that the claimant can obtain payment for the loss or damage from the thief or other responsible person quickly and without undue burden.

2.34.5 Robbery.

2.34.5.1 Settlement authorities pay for the theft from a person by force, threat of bodily harm, snatching, or pickpocketing, if:

2.34.5.1.1 The robbery occurs at quarters or other authorized places, during official duty or TDY.

2.34.5.1.2 The claimant reports the robbery immediately (or as soon thereafter as practical) to police or command authorities.

2.34.5.2 Pay for up to \$200 in cash.

EXCEPTION: Pay more than \$200 if the claimant has a reasonable and believable explanation for carrying a greater amount.

2.34.6 Loss of Money Delivered to an Agent of the United States. Settlement authorities pay for the loss of money delivered to Government personnel authorized or apparently authorized to accept funds.

2.34.7 Vandalism. Settlement authorities pay for intentional damage to property, including vehicles at quarters and other authorized places (see paragraph 2.33).

2.34.7.1 Due to the mobility of vehicles, settlement authorities require a higher degree of independent evidence than in other cases to show that the vandalism actually occurred at quarters or an authorized place. Such evidence may consist of:

2.34.7.1.1 Physical evidence verified by police report.

2.34.7.1.2 A statement from a witness who either saw the vandalism or can confirm the vehicle's presence during the time period when it occurred.

2.34.7.1.3 Other similar evidence.

2.34.7.2 Settlement authorities do not deny a claim because the vandal has been identified. However, they do suspend payment if a good chance exists that the claimant can obtain payment for the loss or damage from the vandal or other responsible person (such as the parent of a dependent vandal) quickly and without undue burden.

2.34.8 Disclaimers of Liability. In some cases, authorities post signs in areas or facilities on an installation disclaiming liability for theft, vandalism, or other loss or damage of property. In other cases, claimants who use MWRS facilities must sign agreements that MWRS or the Government will not be liable for property loss or damage. Although authorities may use such disclaimers to relieve a NAFI of responsibility for claims when the NAFI is not negligent, the disclaimers do not prevent claimants from making otherwise valid claims under the Personnel Claims Act.

2.34.8.1 When authorities have relieved an NAFI of responsibility by a disclaimer, but the claim is payable as a personnel claim, settlement authorities pay it with appropriated funds.

2.34.8.2 When an NAFI is negligent, settlement authorities process the claim as a tort claim payable with nonappropriated funds.

2.34.8.3 Although disclaimers cannot bar valid claims, settlement authorities may consider the existence of a disclaimer as a factor in whether the claimant was negligent in leaving property without taking adequate precautions for its security.

2.35 Vehicles:

2.35.1 Vehicles include:

2.35.1.1 Automobiles.

2.35.1.2 Motorcycles.

2.35.1.3 Mopeds.

2.35.1.4 Utility trailers and camping trailers.

2.35.1.5 Trucks with mounted camper bodies.

2.35.1.6 Motor homes.

2.35.1.7 Boats and boat trailers.

2.35.1.8 Aircraft.

2.35.1.8.1 Mobile homes and other property used as dwelling places are not vehicles.

2.35.2 Settlement authorities pay for the loss of or damage to vehicles:

2.35.2.1 Shipped to, from, or between overseas areas or other areas at Government expense.

EXCEPTION: Settlement authorities do not pay for damage that results from a mechanical defect.

2.35.2.2 Properly located at quarters or other authorized places (see paragraph 2.33), if the loss or damage results from fire, flood, hurricane, other unusual occurrence, theft, or vandalism.

2.35.2.3 When the claimant was authorized by the Government to use the vehicle during military duty and the loss or damage did not result from a mechanical defect.

NOTE: Claimants show their written orders to prove they were authorized to use the vehicle for Government business.

2.35.3 Settlement authorities do not pay for loss or damage:

2.35.3.1 Caused during shipment at the claimant's expense.

2.35.3.2 While an agent of the claimant is moving the vehicle to or from the port.

2.35.3.3 Caused by a hit-and-run driver.

2.35.3.4 Caused by theft or vandalism when inadequate evidence exists that the loss or damage occurred at quarters or an authorized place. (See paragraphs 2.34.4 and 3.34.7.)

2.35.3.5 When the owner had intentionally failed to register or insure the vehicle in compliance with state laws or Air Force requirements.

2.35.3.6 When the owner failed to register or insure the vehicle in compliance with state laws or Air Force requirements intended to prevent the loss or damage claimed.

2.35.3.7 Caused by a structural failure of the vehicle or some other mechanical defect.

2.35.4 If the vehicle is near the claims office, claims personnel inspect it when they receive a claim for loss or damage, or as soon afterwards as possible.

2.35.4.1 Direct claimants to drive their vehicles, if operable, to the claims office for inspection.

2.36 Clothing and Other Items. Settlement authorities pay for loss of or damage to clothing and other items worn on a military installation or during military duty, if caused by fire, flood, hurricane, other unusual occurrence, theft, or vandalism.

2.36.1 Pay only for clothing and other items that the Government did not supply.

2.36.2 "Other items" include:

2.36.2.1 Hearing aids.

2.36.2.2 Eyeglasses.

2.36.2.3 Items the claimant was carrying.

2.36.3 If a civilian employee suffers damage to eyeglasses or other items, along with an injury, determine whether the Federal Employees' Compensation Act will cover the property damage before paying under this chapter.

2.36.4 Uniforms. Claims personnel receive all claims involving military uniform items and first adjudicate both officer and enlisted member uniform claims under the Military Personnel and Civilian Employees' Claims Act and the provisions of this chapter. However, if payment is not appropriate under the claims statute, then only for enlisted member uniform items that are part of the enlisted clothing monetary allowance system (issue uniform items), claims personnel initiate consideration of reimbursement under the provisions and procedures of AFM 67-1, paragraph 75.

2.36.4.1 Claims for enlisted issue uniform items which are nonpayable under the Military Personnel and Civilian Employees' Claims Act are accomplished on an AF Form 659, Personal Clothing Claim, for processing under AFM 67-1.

2.36.4.2 Organizational commanders or their designated representatives consider and approve or disapprove claims for enlisted issue uniform items under AFM 67-1 only if payment is not possible under the Military Personnel and Civilian Employees' Claims Act. All other types of enlisted uniform items, such as non-issue articles, and amounts of military clothing in excess of the enlisted clothing allowance are processed solely under the Military Personnel and Civilian Employees' Claims Act.

2.36.4.3 Claims for enlisted issue uniform claims which are lost, stolen, or otherwise made unserviceable may be considered under AFM 67-1 when:

2.36.4.3.1 The loss occurs within the United States at an off-base location (residence) while the member is not on duty and is caused by fire, flood, hurricane, or other unusual occurrence, theft or vandalism.

2.36.4.3.2 Items are made unfit or unsuitable for wear due to excessive changes in weight while under treatment of medical personnel and economic alterations at the government's expense are not feasible.

2.36.4.3.4 Items are lost due to medical treatment or hospitalization.

2.36.4.3.4 Enlisted members or officers (the one officer claim permitted under AFM 67-1) return from prisoner of war status and need a standard initial issue of uniform items.

2.36.4.3.5 Items are lost due to an Act of God or under other unusual circumstances.

2.37 Property Held as Evidence. If authorities must hold property belonging to the victim of a crime as evidence for an extended time and the temporary loss or damage of the property is a hardship on the victim, settlement authorities may pay a claim for the loss or damage.

2.37.1 Settlement authorities do not pay a person suspected or accused of an offense for property seized as evidence from them.

2.38 Enemy Action, Hostile Acts, Confiscation, Evacuation, or Public Service. Settlement authorities pay for loss or damage that results directly from:

2.38.1 Enemy action or threat, including combat, guerrilla, or other belligerent activities, whether or not the United States was involved. This includes action to prevent capture or confiscation.

2.38.2 Acts of mob violence, terrorist attacks, or other hostile acts directed against the United States, military members, or employees.

2.38.3 Unjust confiscation of property belonging to Air Force members or employees by a foreign government or its nationals. The term “confiscation” includes situations in which an unjust change or application of foreign law forces surrender or abandonment of property.

2.38.4 Action by the claimant in an attempt to:

2.38.4.1 Stop a civil disturbance.

2.38.4.2 Assist during a public disaster.

2.38.4.3 Save a human life.

2.38.4.4 Save Government property.

2.38.5 Evacuation from a foreign country on the recommendation or order of competent authority, in response to an act of political unrest or a hostile act by people in that country.

Section F—Claims Not Payable

2.39 Claims Not Payable. Settlement authorities do not pay claims:

2.39.1 For loss or damage that is not incident to the claimant’s service. (See section E)

2.39.2 For loss or damage resulting from the negligence or wrongful act of a claimant or the claimant’s agent. (See section I)

2.39.3 By subrogees or assignees.

2.39.4 For certain loss or damage that the claimant or the Government recovers, can recover, or could have recovered from another source:

2.39.4.1 Claims for loss or damage payable by insurance. (See section K)

2.39.4.2 Claims for loss or damage that the Government could have recovered from a carrier, warehouse, or other Government-sponsored shipment or storage contractor.

2.39.4.2.1 In presenting a claim, claimants assign their rights to collect from carriers and other contractors and must assist the Air Force in recovering from those sources.

2.39.4.2.2 If a claimant prevents the Air Force from recovering loss or damage from a carrier or other contractor by cashing a settlement check, settlement authorities do not pay the claimant for any part of the loss or damage. (See section L)

2.39.4.3 Claims for loss or damage that claimants actually recover from another source before final settlement of the claim.

NOTE: See paragraph 2.73.1. for an exception.

2.39.4.4 Claims for loss or damage that claimants can recover from another source quickly and without undue burden.

2.39.5 For intangible property. (See section D)

2.39.6 For real property. (See paragraph 2.26.)

2.39.7 For incidental expenses and consequential damages, including:

2.39.7.1 Costs of preparing a claim.

2.39.7.2 Financial loss or damage due to canceled orders.

2.39.7.3 Loss of use.

2.39.7.4 Inconvenience expenses.

2.39.8 For Government property.

2.39.9 For enemy property or war trophies.

2.39.10 For loss or damage at off-base quarters within the United States that the Government did not provide. (See paragraph 2.33.2.)

2.39.11 For articles that the claimant acquired or held for sale, resale, or used in a private business. (See paragraph 2.43.1.)

2.39.12 For property that the claimant acquired, possessed, or transported in violation of laws, regulations, or directives, or used to violate the law. (See paragraphs 2.43.2 and 2.43.3.)

2.39.13 For certain vehicle damages, including hit-and-run and theft and vandalism claims where there is insufficient evidence to determine where the loss or damage occurred. (See paragraphs 2.35.3 and 2.34.7.1.)

2.39.14 That are fraudulent claims or misrepresented items. (See paragraph 2.54.)

NOTE: This list is not exclusive. Refer to applicable sections or paragraphs in this instruction for further information where necessary.

Section G—Reasonable or Useful Property

2.40 Background. One of the basic restrictions of the Personnel Claims Act is that settlement authorities may pay a claim only when the claimant’s possession of the property was reasonable or useful under the circumstances. (See 31 U.S.C. 3721f(2).)

2.40.1 Under some circumstances, particular items serve no useful purpose and are not reasonable for a claimant to have. Some items that are perfectly reasonable to possess in quarters serve no useful purpose in the field or on TDY travel.

2.41 Personal Tools and Other Equipment Used to Perform Official Duties. Normally, Air Force personnel do not have a reasonable need to use their personal tools and personal equipment for official duties at the workplace.

2.41.1 Privately owned personal computers are generally inappropriate for use in performing official duties.

2.41.2 Settlement authorities pay for loss of or damage to personal tools and equipment only if the claimant used them to perform assigned tasks on a temporary basis with the authorization of the supervisor or commander, or the use was so brief or limited that it would not be reasonable to expect authorization.

2.42 Money. As a general rule, \$200 cash on the person and \$300 cash in quarters is the maximum reasonable amount to possess.

EXCEPTION: The claimant had no opportunity to bank the excess or has a valid reason for possessing it.

2.43 Property Never Deemed Reasonable or Useful:

2.43.1 Because the Air Force does not consider business property to be reasonable or useful for military service or employment, settlement authorities do not pay for property that claimants acquire and keep for resale, or for use in a private business or enterprise.

2.43.1.1 Settlement authorities pay for items that claimants acquire for both personal and business use, if the business use is only occasional.

EXCEPTION: Settlement authorities do not pay if the items are lost or damaged while the claimant is using them for business.

2.43.1.1.1 Do not pay if the business use is substantial, or if the item occasionally used for business is designed for professional use and is not normally intended for personal use.

2.43.2 Settlement authorities do not pay for contraband and other items that claimants illegally acquire, possess, or transport.

2.43.2.1 Do not consider seizure by customs inspectors or other law enforcement personnel as loss or damage incident to service.

2.43.3 Settlement authorities do not pay for items whose only purpose is to violate the law, such as radar detectors.

2.44 Overweight Shipments. Settlement authorities consider property lost or damaged in shipment at Government expense to be lost or damaged incident to service, even if the shipment is overweight and the claimant pays part of the shipping costs.

2.45 Quantities and Qualities of Property:

2.45.1 Initially, settlement authorities do not consider quantities and qualities of property far in excess of what a claimant can use under the circumstances to be reasonable or useful.

2.45.1.1 Claims personnel follow the military claims services' *Allowance List - Depreciation Guide*, which lists maximum allowable payments for certain items and categories of items. Apply the maximum allowable payments in adjudicating personnel claims.

EXCEPTION: Do not use the guide for claims involving full replacement protection coverage.

2.45.2 Staff Judge Advocates of Air Force bases and the Chief and branch chiefs, General Claims Division, may waive the maximum allowable payment limitations.

2.45.2.1 The maximum allowable payment limitation may be waived in any amount up to the adjudicated value of the claimed item. If a staff judge advocate does not approve a waiver of the maximum allowable payment up to the adjudicated value:

2.45.2.1.1 If the staff judge advocate feels that some amount greater than the maximum allowable limitation, but less than the amount claimed is payable, the staff judge advocate or a member of his staff may negotiate with the claimant in an effort to reach a compromise.

2.45.2.1.1.1 No settlement may be agreed upon for any amount unless substantiation exists supporting that sum.

2.45.2.1.1.2 The substantiation for the "negotiated" amount must be documented in the claims file.

2.45.2.1.1.3 If a compromise is reached the claimant and the Staff Judge Advocate will sign a document containing the compromise. This document will also be kept as part of the claim file.

2.45.2.1.2 If the staff judge advocate determines no payment should be made in excess of the maximum allowable, or if a compromise cannot be reached with the claimant:

2.45.2.1.2.1 The claim payment is processed (with or without a payment exceeding the item's maximum allowable), then the claim file is forwarded to the General Claims Division for reconsideration. In the forwarding letter, the staff judge advocate should indicate why waiver is not warranted, or that a compromise could not be reached.

2.45.2.2 The staff judge advocate may not delegate the authority to approve a waiver of the maximum allowable payment.

- 2.45.3 The Air Force recognizes that the maximum allowable amounts may not be appropriate in all cases. In determining whether to approve a waiver of maximum allowable payments, staff judge advocate should consider:
 - 2.45.3.1 The extent to which the claimant provided evidence of ownership and the value of the property.
 - 2.45.3.2 The circumstances surrounding the claimant's ownership of more than average quantities or better qualities of goods.
 - 2.45.3.3 The actual circumstances surrounding the loss or damage.

Section H—Evidence Supporting Claims

2.46 Background. The Personnel Claims Act requires support of claims. (See 31 U.S.C. 3721(f)(1).)

- 2.46.1 For settlement authorities, the key to determining whether a claimant is entitled to payment is to assess whether the claimant provides evidence:
 - 2.46.1.1 That the loss or damage occurred.
 - 2.46.1.2 Of the value of that loss or damage.

2.47 Required Evidence.

- 2.47.1 While no set rule exists as to how much proof claimants must provide, claims personnel may require them to provide:
 - 2.47.1.1 A purchase receipt or other evidence to confirm the value of items for which more than \$250 is claimed.
 - 2.47.1.2 Evidence of ownership when claiming missing items that movers would normally have listed on an inventory, but did not.
 - 2.47.1.3 A repair estimate for internal damage to an item or for all other damage to an item for which the claimant claims more than \$100.
- 2.47.2 Claims personnel do not follow these standards rigidly, but consider:
 - 2.47.2.1 The documentary evidence that the claimant provides.
 - 2.47.2.2 The timeliness of the report of loss or damage.
 - 2.47.2.3 The overall credibility of the claimant.

2.48 Documentary Evidence. Claims personnel adjudicate most claims by reviewing the documentary evidence that claimants supply.

NOTE: These documents vary considerably in reliability.

- 2.48.1 Claims personnel use the inventory as their most important document in evaluating a personnel transportation claim and demonstrating tender of items to the carrier.
 - 2.48.1.1 Consider preexisting damage listed on the inventory, and any discrepancies between the description of the item on the inventory and the item claimed.
 - 2.48.1.2 Analyze the inventory with the claim form and DD Form 1840/1840R.
- 2.48.2 In some cases, a statement by the claimant may be the only evidence available. Claims personnel:
 - 2.48.2.1 Give weight to such a statement, based on the claimant's credibility.
 - 2.48.2.2 Analyze credibility in light of all facts and the claim as a whole.
 - 2.48.2.3 Require the claimant to provide a sworn statement in appropriate cases.
- 2.48.3 Claims personnel may ask claimants for purchase receipts and prior appraisals as the best evidence to show the ownership and value of a missing item.

NOTE: While such documentary evidence by itself may not prove that tender took place, it may provide evidence of tender in combination with other circumstances.

- 2.48.4 Claims personnel view estimates, paid bills, and subsequent appraisals as the best evidence to show replacement or repair cost, but must use caution in assessing this evidence.
 - 2.48.4.1 Remember that an estimate from a person who is not in the business of repairing or selling that particular type of property may be worthless.
 - 2.48.4.2 Weigh cautiously any estimate prepared by someone who did not even examine the item.
- 2.48.5 Claims personnel may use photographs and videotapes as:
 - 2.48.5.1 Excellent evidence of ownership and value.
 - 2.48.5.2 Possible proof of tender.
- 2.48.6 For cases in which the police made an independent inquiry, claims personnel may use a police report instead of an inspection to help determine whether a claimant was negligent.
 - 2.48.6.1 The claims office must independently determine whether the claimant was negligent and does not merely repeat a police officer's conclusions.

2.49 Prompt Reporting of Loss or Damage.

2.49.1 Claimants should report:

2.49.1.1 Loss or damage promptly.

2.49.1.2 Theft and vandalism to police authorities immediately upon discovery, or at the latest within 24 hours.

2.49.2 Claimants list missing inventory items and obvious damage at the time of property delivery on DD Form 1840. They list missing items or damage discovered up to 70 days after delivery on DD Form 1840R.

2.49.3 When picking up a shipped vehicle, claimants list loss or damage on DD Form 788, **Private Vehicle Shipping Document for Automobile**.

2.49.4 Settlement authorities do not pay for obvious external damage that is not timely listed on DD Form 1840, DD Form 1840R, or DD Form 788.

EXCEPTION: Settlement authorities may still pay if the claimant reports the damage to a shipped vehicle to claims personnel within a reasonable time (30 days) after arriving at the installation and provides the claims office with an opportunity to inspect the vehicle.

2.49.4.1 In cases of concealed mechanical damage, claims personnel request a repairer's opinion as to whether damage could be shipment-related or is normal wear and tear.

2.50 Proving Tender of Items Not Listed on the Inventory:

2.50.1 Claimants asserting that items unlisted on the inventory (that would ordinarily appear on a well-prepared inventory) are missing from a shipment must provide purchase receipts or other evidence of ownership, such as photographs and additional solid evidence of tender, to prove that the items existed and were shipped. Additional evidence of tender could include a sworn statement by the member in appropriate cases, or statements by others who saw the items at pickup or shortly before.

2.50.2 If the claim is for damage to an item not listed on the inventory, the presence of the item in the claimant's quarters, together with an annotation of the damage on the DD Form 1840 proves tender. The presence of the item in the claimant's quarters, along with annotation of the damage on the DD Form 1840R, may prove tender, depending on the circumstances. Claims personnel consider the type of item, the number of shipments, and other relevant factors to exclude other possibilities, such as the possibility that the claimant personally carried the item to the quarters.

2.51 Inspections. In order to determine the appropriate payment for damage, claims personnel, when possible, examine items closely (especially in large claims) to determine the nature of the damage.

2.52 Failure to Prove a Claim. Settlement authorities do not pay a claimant who cannot show that loss or damage occurred as alleged, or that it was incident to service.

2.53 Insufficient Proof of Quantity or Quality. When a claim is for an excessive quantity or quality of property, but claims personnel cannot prove fraud, they deny or reduce the claim, based on the claimant's failure to support the quantity or quality claimed.

2.54 Fraud.

2.54.1 When claimants seek payment for loss or damage under a gratuitous payment statute, such as the Personnel Claims Act, they must submit accurate and truthful documentation to support their claims. Fraud exists when a claimant intentionally and materially misrepresents:

2.54.1.1 The ownership, possession, value, condition, extent of damage, repair cost, purchase date, or replacement cost of claimed property.

2.54.1.2 The cause of loss of or damage to the property.

2.54.1.3 Other material facts necessary for the informed adjudication of the claim.

2.54.2 Claims personnel assume claimants are honest. Therefore, in the absence of clear evidence to the contrary, discrepancies should be presumed to be a mistake, rather than an act of dishonesty.

2.54.3 When settlement authorities determine that a claimant has committed fraud, they take action necessary and appropriate under the circumstances.

2.54.3.1 A settlement authority may completely deny a claim that is substantially tainted by fraud. While the phrase "substantially tainted by fraud" is not easily defined, settlement authorities apply the term to each claim, based on common sense and all the circumstances of the claim. Claims substantially tainted by fraud include:

2.54.3.1.1 Altered estimates that falsely represent a significant portion of the claim.

2.54.3.1.2 Numerous missing items that the claimant never owned.

2.54.3.1.3 Intentional misrepresentation of the ages or the conditions of numerous claimed items.

2.54.3.1.4 Enough examples of fraud to make it difficult, overly burdensome, or impossible for claims personnel to determine which items are legitimate.

2.54.3.2 Settlement authorities do not deny a claim just because fraud exists, but consider the type and extent of the fraud in relation to the entire claim. Do not reject claims merely because claims personnel “feel” that “something is not right” about the claim, or because the claimant cannot produce evidence for claimed items. Document denials well to show the facts and rationale providing the basis for denial. The SJA must personally decide to deny an entire claim based on fraud. The SJA cannot delegate this authority.

2.54.3.3 When settlement authorities find certain line items to be fraudulent or misrepresented, but the claim is not substantially tainted by fraud, they deny line items that are affected by the fraud or misrepresentation, even if some award on the affected line item is well-supported. Pay line items not tainted by the fraud or misrepresentation, if they are well-supported.

2.54.3.4 Settlement authorities may deny or reduce the claim for fraud, even if the claimant alleges that another person, such as a spouse, completed the paperwork on the claimant’s behalf.

2.54.4 When settlement authorities detect fraud after making payment, they re-adjudicate the claim and request return of any overpayment. If the claimant declines to voluntarily repay the amount paid due to fraud, direct the appropriate accounting and finance authorities to withhold the money and credit it to claims funds, using DD Form 139, **Pay Adjustment Authorization**.

2.54.5 Settlement authorities deny or reduce claims due to fraud, independent of any criminal action taken against the claimant and its result. When claims personnel reasonably suspect fraud, they immediately inform the SJA, who refers the matter to law enforcement authorities, if warranted.

Section I—Negligent or Wrongful Acts

2.55 Background. The Personnel Claims Act specifically provides that settlement authorities may pay claims only if “no part of the loss or damage was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.” (See 31 U.S.C. 3721f(1).)

2.56 Negligence. Negligence is a failure to exercise the degree of care expected under the circumstances, when that failure is a proximate cause of the claimed loss or damage.

2.57 Degree of Care. Settlement authorities assess whether a claimant used the same degree of care that a reasonable person would have used under the same circumstances. Assessments will vary in accordance with the circumstances, including the locale.

2.58 Contributory Negligence. The Personnel Claims Act applies contributory negligence standards. In other words, if the claimant’s negligence was a proximate cause of the loss or damage, settlement authorities deny payment, even if other causes of the loss or damage exist. If the loss or damage would have occurred whether or not the claimant committed the negligent act, do not deny payment for the loss or damage based on claimant negligence.

2.59 Theft Cases. Negligence is often a crucial issue in theft cases. Settlement authorities consider failure to use reasonable care to secure and protect property, especially small valuables, as negligence. Because reasonable care in one part of the world may be a complete disregard for the security of the same item somewhere else, settlement authorities must decide each claim on its own facts.

2.60 Wrongful Acts. If a claimant’s criminal conduct was a proximate cause of the loss or damage, settlement authorities deny payment. If a claimant’s property suffers loss or damage while the claimant is in violation of a nonpunitive regulation, consider the loss or damage to be incident to service, if the claimant’s conduct was not a proximate cause of the loss or damage.

2.61 Other Persons Whose Negligent or Wrongful Acts Prevent Payment:

2.61.1 Settlement authorities do not pay for loss or damage resulting from the negligent or wrongful conduct of:

2.61.1.1 Spouses.

2.61.1.2 Children over the age of seven.

2.61.1.3 Adult family members.

2.61.1.4 House guests.

2.61.2 The Air Force considers children under the age of seven to be incapable of negligence.

2.61.2.1 Settlement authorities require a lesser degree of care from children between the ages of 7 and 14 than from adults. Consider parents and persons to whom young children are entrusted as possibly negligent if they fail to supervise such children properly.

2.61.3 Agents are persons that claimants select to carry out particular actions on their behalf. Settlement authorities do not pay claims resulting from an agent's negligent or wrongful conduct, if the conduct occurs within the scope of the agency and reasonably relates to the tasks the agent was asked to perform.

2.61.4 Employees are persons who work for the claimant, such as maids. Settlement authorities do not pay claims resulting from an employee's negligent or wrongful conduct, if the conduct occurs within the scope of employment and reasonably relates to the tasks the employee was hired to perform.

Section J—Adjudication

2.62 Background. Adjudication of a claim consists of making the findings necessary to determine whether the claim is payable and, if so, the appropriate amount. (See paragraph 2.10.) Claims personnel adjudicate claims carefully to compensate claimants fairly. Use small claims procedures (see paragraph 2.86) to the maximum extent permitted.

2.63 Payment Rules:

2.63.1 Settlement authorities pay the claimant the fair market value of missing or destroyed property. (See paragraph 2.65.) In some cases, pay a fair and reasonable amount. (See paragraph 2.66.)

2.63.2 Settlement authorities pay the claimant the actual, estimated, or agreed cost of repairs for damaged property up to the fair market value of the property. In some cases, pay a reasonable sum instead of repair costs. (See paragraph 2.67.3.) In other cases, paying for a loss of value may be appropriate. (See paragraph 2.67.4.)

2.63.3 Claims personnel consider damaged property to be destroyed, if the cost of repairing it exceeds its fair market value. In such cases, limit payment to the fair market value, less the salvage value, if applicable. (See paragraph 2.72.)

2.64 Time and Place of Loss or Damage. Claims personnel record property loss or damage according to the time and place at which the loss or damage occurs. For administrative convenience, claims personnel may use the time the claim was filed and the local area as the time and place of the loss or damage.

EXCEPTION: Do not use the time the claim was filed, if the result of the claim would be markedly different.

2.65 Fair Market Value.

2.65.1 Claims personnel measure fair market value for missing, destroyed, and economically irreparable property according to:

2.65.1.1 Depreciated current replacement cost.

2.65.1.2 Established fair market value.

2.65.2 If a regular market exists for used items of the particular type, claims personnel measure the loss or damage by the cost of a similar item of similar age. Get prices from industry guides, estimates, or appraisals from dealers to determine value. When an established fair market value exists, do not deduct depreciation.

2.65.3 When an item does not depreciate, claims personnel set its fair market value as equal to its current replacement cost.

2.65.4 When an item does depreciate, claims personnel set its fair market value as equal to the current replacement cost, minus any depreciation. Base depreciation on the age, usage, or condition of the property before it was damaged. Use depreciated replacement cost as the typical measure of fair market value for most missing, destroyed, or economically irreparable items.

2.65.5 Current replacement cost is the cost of a new item of the same type or, if the identical item is not available, the cost of a new item as similar in quality, description, and function as possible.

2.65.6 In setting replacement cost prices, claims personnel consider:

2.65.6.1 Replacement cost quotations the claimant submits.

2.65.6.2 Catalog prices.

2.65.6.3 Prices for similar items from local merchants.

When a claimant can purchase the identical item or a comparable item at the base exchange or through the exchange mail order catalog at a lower cost, use the exchange replacement cost.

2.66 “Fair and Reasonable” (F&R) Payments. Claims personnel may set a “fair and reasonable” (F&R) payment for missing or destroyed property if they decide that other measures in paragraph 2.65 would undercompensate or overcompensate the claimant. Because F&R payments may prevent carrier recovery, do not use them when a more appropriate measure is available. An F&R payment for a missing or destroyed item should reflect the value of an item similar in quality, description,

age, condition, and function to the greatest extent possible. When making such payments, explain the basis for the award to the claimant. Consider an F&R payment when:

- 2.66.1 The item is obsolete.
- 2.66.2 The claimant cannot replace the item in the local area.
- 2.66.3 The claimant cannot replace the item at any cost.
- 2.66.4 The claimant asks for a replacement price considerably higher than what is reasonable for the item described.

2.67 Cost of Repairs and Alternative Measures for Damaged Property:

- 2.67.1 The cost of repair may be:
 - 2.67.1.1 The actual cost, as demonstrated by a paid bill.
 - 2.67.1.2 A reasonable estimated cost, as demonstrated by a repair estimate.
 - 2.67.1.3 An agreed cost of repair.

NOTE: Claims personnel may require a claimant to obtain a second estimate, if the first appears unreasonably high.

- 2.67.2 Claims personnel agree with the claimant on repair costs ("agreed cost of repair" or AGC) up to \$500 per claim, instead of requiring estimates or conducting an inspection, if damage is minor and an estimate would be expensive or difficult to obtain. Use this method, especially when processing small claims. Claims personnel must inspect the item, if the agreed repair cost is more than \$100 per item. When conducting an inspection, do not set agreed repair costs of more than \$250 per item.
- 2.67.3 If the shipment damage to an item is so minor that it does not significantly detract from the item's appearance or affect its intended usage, or it does not warrant repairs as extensive as the estimate calls for, settlement authorities pay a reasonable amount to compensate for the damage, instead of paying for a repair.
 - 2.67.3.1 Claims personnel may need to inspect the damage to make this decision.
- 2.67.4 Settlement authorities pay for loss of value (LOV), in addition to the cost of repairs when the repairs reduce the fair market value of an item. Do not pay for LOV, instead of repair costs.
 - 2.67.4.1 Claims personnel require the claimant to have the item repaired first and then determine whether there is an LOV. LOV may be appropriate for antiques, paintings, art objects, upholstered furniture, and other items, if repairs cannot restore them to their former value. Special rules for LOV apply to sets of furniture. (See paragraph 2.70.)

2.68 Preexisting Damage (PED). Preexisting Damage (PED) is damage to a repairable item that predates the incident giving rise to a claim. PED is most commonly identified by the use of symbols on household goods shipment inventories.

- 2.68.1 When PED appears on an inventory, claims personnel must determine whether:
 - 2.68.1.1 The PED did, in fact, exist.
 - 2.68.1.2 The cost of repairing the item includes repairing the PED.

Claims personnel must make these findings to aid in carrier recovery.

- 2.68.2 Claims personnel do not deduct for PED without an actual inspection by a Government representative.

EXCEPTION: Settlement authorities may waive the inspection, if they personally decide the distance to the place of the inspection or other factors makes an inspection economically impractical. Settlement authorities may not delegate this decision. Document this decision in the file.

- 2.68.3 If an estimate does not include repair of the PED (even if the PED appears on the inventory), claims personnel do not deduct for PED.
- 2.68.4 If the estimate includes repair of PED, claims personnel deduct the percentage attributable to repair of PED.

EXCEPTION: When new damage to an item necessitates repairing the PED, claims personnel allow the full cost of repairs.

- 2.68.5 If the PED that must be repaired is roughly equal to or greater than the new damage, so that the claimant's property will be enhanced, claims personnel deduct for the amount of PED being repaired.

2.69 Normal Maintenance. Settlement authorities do not pay for normal maintenance expenses, including charges for cleaning, servicing, aligning, or tuning.

EXCEPTION: Settlement authorities do pay such expenses when they are required to repair actual damages.

2.70 Sets. Normally, when component parts of a set are missing or destroyed, settlement authorities only pay the claimant for the replacement of the missing or destroyed components.

EXCEPTION: When a set is no longer useful for its intended purpose because component parts are missing or destroyed, pay for the replacement of the entire set.

2.71 Depreciation. The Personnel Claims Act is only intended to compensate claimants for the fair market value of their loss. In assessing claims, claims personnel keep in mind that most used items that have been lost or destroyed are worth less than new items of the same type. Depreciate the price of new replacement items to equal the actual fair market value of the lost or destroyed item. Use the average yearly and flat rates of depreciation in the *Allowance List*

- *Depreciation Guide (ALDG)* for determining fair market value of used property in various categories.

EXCEPTION: If a more appropriate measure of fair market value is available, use it instead.

The General Claims Division distributes the ALDG to claims offices separately.

2.71.1 Claims personnel may decrease or increase the listed ALDG depreciation rate, if personal inspection of damaged property, or other evidence, such as photos, indicates that the property was in better than average condition or worse than average condition before the damage. Make decisions to increase the rate of depreciation cautiously. Do not depreciate an item that the claimant had used for less than six months when the loss or damage occurred.

2.71.2 Do not depreciate goods during periods of long-term storage paid for by the Government.

2.71.3 Normally, do not depreciate repair costs. When repairs involve replacing parts, do not depreciate the replacement parts.

EXCEPTION: Depreciate parts that claimants would separately purchase or replace during the useful life of the item.

2.71.3.1 On complete paint jobs for vehicles, depreciate both labor and material at 10 percent per year. Do not depreciate minor paint jobs.

2.71.3.2 When furniture is reupholstered, depreciate the cost of new fabric at five percent per year and allow labor costs as claimed.

2.71.4 If an item was repaired to an almost new condition after the claimant acquires it, measure the age of the item for depreciation purposes from the date of the repair, rather than the original purchase date.

2.71.5 Depreciate no item by more than 75 percent.

2.72 Salvage. Settlement authorities pay the fair market value for an item damaged beyond economically practical repair. If the claimant keeps the item, pay the fair market value at the time of destruction, less the salvage value.

2.72.1 Claims personnel advise claimants not to dispose of damaged items until authorities settle the claim to allow both the Air Force and, in shipment cases, the carrier to inspect and salvage any items for which the claimant is paid full value.

EXCEPTION: Claims offices may authorize claimants to dispose of any property that poses a safety or health hazard. Document in the file permission given to the claimant to dispose of an item.

NOTE: For increased release valuation shipment cases, see the *Joint Military-Industry Memorandum of Understanding on Salvage*.

2.72.2 If a claimant wishes to keep an item, deduct the appropriate salvage value at the time of settlement. While no set salvage value exists on items, avoid using unrealistically high salvage values.

2.72.3 When the claimant does not want to keep an item or the claimant's wishes are unknown and settlement authorities have paid fair market value for the damaged personal property, claims personnel turn it in to the Defense Reutilization and Marketing Office (DRMO).

EXCEPTION: Do not follow this procedure for increased release valuation shipment claims. Instead, follow the procedures in paragraph 2.72.3.5.

EXCEPTION: If the property's value is not great enough to justify the cost of turning it into salvage, advise the claimant that he or she may keep or otherwise dispose of the item.

2.72.3.1 For items with salvage value, claims personnel advise claimants in the settlement letter that by receiving payment of the fair market value, they must now turn the items in to the Government.

2.72.3.2 Because the property belongs to the Government, the Government picks up and moves the property for disposition.

EXCEPTION: The claimant agrees to move it.

2.72.3.3 If the base does not have the capability to routinely pick up salvageable items, settlement authorities consider whether the item has salvage value beyond the cost of transportation.

2.72.3.4 Complete DD Form 1348-1, **DoD Single-Line Item Release/Receipt Document**, for items turned in to DRMO. Include a copy of the form in the claim file.

2.72.3.5 For increased released valuation shipment claims, when the Air Force pays the fair market value for damaged property and asserts a carrier recovery claim, the carrier, upon paying the Air Force claim, may salvage the property.

NOTE: See the applicable rules in the *Joint Military-Industry Memorandum of Understanding on Salvage*.

EXCEPTION: If claims personnel have deducted the salvage value, the carrier has no right to the property.

2.72.3.6 When the carrier is entitled to the property under the *Joint Military-Industry Memorandum of Understanding on Salvage*, claims personnel provide a notice to the claimant to ensure that the claimant holds on to the property until after the carrier's entitlement period ends.

2.72.3.6.1 For claims that claimants have presented and received payment for within

120 days after delivery of a shipment, the claimant's settlement letter reads: "You were awarded the full or depreciated value of some of your property. As the result of a memorandum of understanding between the carrier industry and the military services, this property now belongs to the carrier. The carrier has until (enter the exact date, calculated by adding 35 days to the later of: (a) the date of the settlement letter, (b) 75 days added to the date of delivery of the shipment, or (c) 45 days added to the date the DD Form 1840R was sent to the carrier) to make arrangements for the pickup of this property. If a carrier representative fails to contact you concerning pickup of the property by (again, list the date), you may dispose of the items as you choose."

2.72.3.6.2 For claims that settlement authorities have approved for payment more than 120 days after delivery, the claimant's settlement letter reads: "You were awarded the full or depreciated value of some of your property. As the result of a memorandum of understanding between the carrier industry and the military services, this property now belongs to the carrier. The carrier has until (enter the exact date, calculated by adding 35 days from the date of the settlement letter) to make arrangements for the pickup of this property. If a carrier representative fails to contact you concerning pickup of the property by (again, list the date), you may dispose of the items as you choose."

2.72.3.7 If the claimant has disposed of the property during the time period that the carrier was entitled to salvage, give the carrier a credit according to the *Joint Military-Industry Memorandum of Understanding on Salvage*. The settlement authority may get from the claimant an amount equal to the credit.

2.72.4 If the claimant does not receive full compensation for an item because a maximum allowance applies, claims personnel do not deduct salvage or require the claimant to turn in the item.

2.73 Recovered Property:

2.73.1 If claimants locate lost property before settlement authorities approve the claim for payment, settlement authorities do not pay for such property.

EXCEPTION: Settlement authorities pay for:

2.73.1.1 Items that have been damaged in shipment.

2.73.1.2 Necessary items that were missing for an unreasonable time after the expected arrival date and that the claimant replaced before recovery.

NOTE: Necessary items are those that are basic to the operation of a household.

2.73.1.2.1 Claimants who receive payment in accordance with the exception to paragraph 2.73.1 disclaim in writing further interest and ownership in such items.

2.73.2 If lost property is located after a settlement authority has approved the claim for payment, claims personnel advise the claimant of two options:

2.73.2.1 To accept any or all of the items located and repay the amount already allowed for such items.

2.73.2.2 Disclaim in writing further interest and ownership in the property and keep the amount that the settlement authority has approved for payment.

2.73.2.2.1 If the settlement authority determines that the recovered property is substantially different in quality, price, or value from the property claimed, the settlement authority may require the claimant to return the amount allowed for such property and accept the property.

Section K—Insurance

2.74 Private Insurance. Because the Personnel Claims Act is not intended to be a substitute for private insurance or to benefit private insurers, claimants must provide copies of policies. Claimants with insurance coverage for all or part of the loss or damage must file claims with their insurers before claims personnel process their claims against the Air Force.

2.75 Claimant's Refusal. If claimants refuse to provide a copy of their insurance policy, claims personnel submit a demand on the insurer (or take other action necessary to present a demand on the insurer), and deduct the amount of insurance recovery lost. In the absence of clear evidence to the contrary, assume that the claimant's insurer would have fully compensated the claimant and deny the claim on this basis.

2.76 Claimant's Failure to Notify. If the claimant negligently or intentionally, and without good cause, fails to provide the insurer with timely notice and, thus, allows the insurer a basis to deny the insurance demand, claims personnel deduct the amount of insurance recovery lost.

2.76.1 "Good cause" includes:

- 2.76.1.1 Officially recognized absence (TDY).
- 2.76.1.2 Hospitalization that directly contributes to the claimant's failure to notify the insurer.
- 2.76.1.3 Proven misinformation by Government personnel.
- 2.76.2 Claimants must be aware of the provisions of their insurance policies. Settlement authorities do not consider a claimant's lack of familiarity with insurance policy notice requirements to be good cause.

2.77 Suspending Adjudication Awaiting Insurance Settlement. Claims personnel suspend adjudicating insured items until the insurer settles the claim.

EXCEPTION: Claims personnel do not suspend their adjudication or processing, if the insurer denies the claim or the delay causes a hardship on the claimant. If delay causes a hardship, pay the claim and file a subrogation claim against the insurer.

- 2.77.1 Do not suspend adjudicating items that insurance clearly does not cover.

2.78 Payment Allowed When Claimant Has Insurance. Claims personnel deduct the amount a claimant recovers from insurance from the amount payable by the Air Force. When possible, do this on an item-by-item basis. Do not make any deduction for those items that the claimant claims against the Air Force but that insurance does not cover.

Section L—DD Form 1840/1840R and Lost Potential Carrier Recovery

2.79 DD Form 1840/1840R.

- 2.79.1 Claims personnel use two pink forms to notify carriers of transportation or storage loss or damage:
 - 2.79.1.1 DD Form 1840, Joint Statement of Loss or Damage at Delivery.
 - 2.79.1.2 DD Form 1840R, Notice of Loss or Damage.

NOTE: DD Form 1840R is the reverse side of DD Form 1840.

2.79.2 Claims personnel consult the *Military-Industry Agreement on Loss and Damage Rules* for procedures on using DD Forms 1840 and 1840R. If the carrier provides the claimant with DD Forms 1840 and 1840R at delivery, the carrier is entitled to timely notice of all loss or damage during shipment. Claimants must list specific loss or damage (with inventory numbers) on DD Form 1840 at delivery, or on DD Form 1840R later. When additional loss or damage is listed on DD Form 1840R, the claimant submits DD Form 1840R to the claims office within 70 days of delivery. The claims office reviews the form and sends it to the carrier within 75 days of delivery. Settlement authorities may extend this 75-day period, if the claimant is hospitalized or on TDY.

2.79.3 Although a claimant should submit DD Form 1840R to the claims office within 70 days, claims personnel must accept the form on or before the 75th day after delivery, and send it to the carrier in time. If DD Form 1840R arrives on the 75th day after delivery, send it on the same day.

2.79.4 Lost potential carrier recovery (PCR) is money that the Government cannot collect from a carrier or warehouse firm because the claimant failed to provide proper or timely notice of loss or damage. Claims personnel deduct the entire amount of lost PCR on an item-by-item basis from the amount they would otherwise have awarded to the claimant.

EXCEPTION: Claims personnel do not deduct from the claimant if the claimant has good cause.

2.79.5 In many cases, lost PCR results in 100 percent deductions on affected items because claims personnel could otherwise have collected the entire amount of the loss or damage. When 100 percent deductions are necessary on all items claimed, the result is denial of the entire claim. When the carrier's depreciated value of an item is less than the Air Force's depreciated value, pay the claimant the difference between the two depreciated values.

2.79.6 Because a claimant's failure to provide proper and timely notice on DD Forms 1840 and 1840R may be cause to presume that the loss or damage was not shipment-related, settlement authorities may use this failure to deny payment on one or more items, apart from the issue of lost PCR. The longer the time period between delivery and the filing of a claim without proper or timely notice on DD Form 1840 or 1840R, the stronger the presumption.

2.79.7 When claimants show good cause for not submitting DD Form 1840R within 75 days, claims personnel make no deduction for lost PCR and no presumption about shipment loss or damage.

2.79.7.1 A settlement authority may find good cause when the claimant:

- 2.79.7.1.1 Was on TDY or undergoing hospitalization.

NOTE: When a TDY or hospitalization constitutes good cause, settlement authorities add the length of the absence to the 75 days, and the claimant must then submit DD Form 1840R within the newly-established time period.

2.79.7.1.2 Receives misinformation or improper counseling from Government personnel concerning DD Forms 1840 and 1840R.

- 2.79.7.1.3 Was moved for the first time.

2.79.7.1.4 Had other appropriate reasons.

Section M—Increased Protection Shipments

2.80 General Information.

2.80.1 Claimants may purchase two types of additional protection on Government-sponsored household goods shipments:

2.80.1.1 An increase in the basic valuation.

2.80.1.2 Full replacement protection.

The transportation office arranges this added protection with the carrier. Claimants may purchase the two types of added protection only on household goods shipments that begin and end in the United States.

EXCEPTION: Claimants may not purchase added protection for shipments to or from Hawaii.

EXCEPTION: Added protection options do not apply during periods of nontemporary storage.

2.80.2 Increasing the Basic Valuation (Option 1). Option 1 is depreciated value coverage, which the Air Force provides either as a valuation in excess of \$1.25 per pound times the weight of the shipment, or as a lump sum declaration. Transportation personnel must reflect option 1 in the remarks section of the GBL.

2.80.3 Full Replacement Protection (Option 2). Option 2 is nondepreciated full replacement value coverage and is more expensive than option 1. Transportation personnel must reflect option 2 in the remarks section of the GBL. Under option 2, the carrier can choose to repair or replace items, rather than pay full replacement value to the claimant.

2.81 Procedures for Option 1 and 2 Shipments:

2.81.1 Claimants who purchase option 1 or 2 must first submit a claim for loss or damage to the carrier. Claims offices help the claimant file against the carrier and may compute the carrier's liability. Claims offices must advise claimants not to accept a settlement offer or check from the carrier unless the claimant is totally satisfied with the settlement and does not intend to pursue a claim against the Air Force for any portion of the claim.

2.81.2 If the carrier denies the claim, makes an inadequate settlement offer, or causes hardship to the claimant by delaying settlement for more than 60 days after submission of the claim to the carrier, the claimant may submit the claim to the Air Force.

2.81.2.1 Claims personnel process option 1 claims in accordance with this chapter. Assert a subrogation claim against the carrier for the full adjudicated value of the loss or damage without regard to maximum allowable payments. Set off the carrier, if necessary. If the carrier pays more than the Air Force did on any item, pay the claimant the additional amount.

2.81.2.2 Claims personnel process option 2 claims in accordance with this chapter.

EXCEPTION: In complying with this chapter, claims personnel do not take depreciation and do not apply maximum allowable payments. In other words, the Air Force pays the claimant full replacement value.

Assert a subrogation claim against the carrier for the full adjudicated, nondepreciated value of the loss or damage without regard to maximum allowable payments. Set off the carrier, if necessary.

Section N—Claims Office Administration

2.82 Basic Policy. The claims process is not an adversarial one. The policy underlying passage of the Personnel Claims Act is to pay meritorious personnel claims fairly and promptly to maintain claimants' morale and avoid their financial hardship. Claimants who have suffered loss or damage are entitled to helpful, friendly, and courteous service.

2.83 Settlement Letters. When settlement authorities deny a claim or approve it in an amount less than that claimed, they must give the claimant a detailed, clear, and understandable explanation of the reasons. Claims personnel aim to make less than satisfied claimants aware of the basis for the action taken, both to give them a meaningful opportunity to ask for reconsideration and to assure them that they receive fair and impartial treatment. Give claimants a copy of the adjudication of their claim as an attachment to the settlement letter.

2.84 Publicity. The personnel claims program exists not only to pay meritorious claims, but also to encourage potential claimants to adopt measures that reduce the risk of loss or damage and to assist them in providing evidence of loss or damage that occurs. Use daily bulletins and other base publications to publicize matters, such as:

2.84.1 The availability of full replacement coverage through the transportation office.

2.84.2 Completing household goods inventories.

2.84.3 Using DD Forms 1840 and 1840R.

2.84.4 The maximum allowances for various types of property.

- 2.84.5 Problems associated with DITY moves and mobile home shipments.
- 2.84.6 Problems associated with the shipment of expensive items, such as jewelry.
- 2.84.7 Rules about securing bicycles and storing property in vehicles.
- 2.84.8 Insurance requirements.

2.85 Risk Management. Risk management is an important part of a base personnel claims program. Claims personnel must assess how base and unit policies affect claims. Prompt payment of claims is not a substitute for policies that minimize the occurrence of preventable loss or damage. An effective claims prevention program can affect both the flow of claims funds in an era of tight fiscal constraints and the overall quality of life on an installation.

2.86 Small Claims Procedures. Small claims are those for \$1,000 or less that do not require extensive investigation. Claims personnel use small claims procedures whenever possible.

- 2.86.1 Relax the requirement for evidence under the small claims procedures. Obtain evidence to support the claim by telephone, from incident reports, and other easily available sources.
- 2.86.2 Use agreed cost of repair whenever possible. (See paragraph 2.67.2.)
- 2.86.3 Claims personnel may waive the requirement for any documents.

2.87 Claims Office Procedures:

- 2.87.1 Claims personnel maintain a sign-in log for all customers visiting the office.

NOTE: Such logs are frequently invaluable in showing when a claimant visited the claims office, if a dispute arises over when the claimant presented a claim or DD Form 1840R.

- 2.87.2 Claims personnel note the actual date received on all documents mailed to the office.
- 2.87.3 Because claimants' perception of the quality and fairness of the claims process largely depends on the adequacy of the initial briefing or counseling they receive, claims personnel must treat every briefing or counseling as important.
- 2.87.4 Claims personnel inform claimants of the two-year time limitation for presenting a claim. Inform claimants of the requirements to notify a carrier or insurer and the consequences of not doing so. Provide this information via newcomer briefings, newspaper articles, and so on. Similarly counsel claimants calling or writing the claims office for advice.
- 2.87.5 Claims personnel explain the claim forms and help claimants complete them correctly. Help claimants accurately describe the facts and circumstances giving rise to the claim and accurately list items and damage. Copy and return original documents that they receive from the claimant.

EXCEPTION: Claims personnel keep the original carrier and warehouse inventories and give the claimant copies.

- 2.87.6 Claims personnel make available the standardized claims handouts that the General Claims Division distributes, as well as any necessary local supplemental information. Prepare for prospective claimants a small instruction packet with the claim forms and guidance for filling them out. Where resources permit, individually assist claimants who come into the office.
- 2.87.7 Claims personnel maintain a current list of local firms that can repair various types of property at a reasonable cost. Provide lists for both vehicle and furniture repairs, preferably with at least three names each. Advise claimants that the listing of a firm is not an endorsement. Advise claimants to consult the claims office before getting an estimate from an unlisted firm. If a firm cannot repair the property in question or is known for substandard work or unusually high estimate fees or repair charges, advise the claimant to find another firm.
- 2.87.8 Claims personnel maintain current exchange and retail catalogs for claimant's use.
- 2.87.9 Claims personnel advise claimants that the carrier has the right to inspect damaged items. Consult the *Military-Industry Memorandum of Understanding on Loss and Damage Rules*. Do not delay settlement of claims merely because the carrier inspection period has not run out. If the claims office learns that a claimant has refused the carrier the right to inspect, the claims office ensures that the inspection takes place. If necessary, deduct lost PCR on all damaged items the carrier was not allowed to inspect.
- 2.87.10 A claimant may settle a claim directly with the carrier. However, if a claimant does so, they may not seek additional payment from the Air Force, because the claimant will have eliminated the Air Force's subrogation right.

EXCEPTION: The claimant may seek additional payment from the Air Force, if Air Force liability is greater than the maximum carrier liability.

Claims personnel caution claimants not to accept settlement offers or checks from carriers unless they are totally satisfied with the settlement and do not intend to pursue a claim against the Air Force.

- 2.87.11 Claims personnel advise claimants not to throw items away before settling the claim and before the carrier's inspection period or salvage period ends.

EXCEPTION: Claims personnel may encourage disposal of hazardous or unsafe items.

2.87.12 Claims personnel review claim forms to ensure completeness. Do not refuse to accept a claim or return a claim because it lacks documents or does not arrive on a certain form. Instead, advise claimants that such deficiencies may delay processing. When handling initial claims and reconsideration requests:

2.87.12.1 Ensure that the claimant or agent has signed the claim form and stated a sum certain (in the "amount claimed" block).

2.87.12.2 Mark or stamp the claim form with the actual date and time received.

2.87.12.3 Sign or initial the form.

2.87.13 The claimant must complete enough information on the claim form to verify the cost, age, and inventory number of each item claimed. The claimant must list the current replacement cost and the original purchase price and fully describe the item, including the brand and model. If an item was a gift, the claimant states this fact and lists the gift's value when first received. If the item was used, the claimant should state this and list the item's age when first received, if known.

2.87.14 If the claimant has not provided required information on the claim form or evidence, such as repair estimates or replacement cost quotations, claims personnel may suspend adjudication of the claim. Settle any items that can be settled and advise the claimant in the settlement letter of the need for additional information. Give the claimant a specified amount of time to submit the additional information, such as 30 days, and advise the claimant that if the information is not provided, the Air Force may deny payment for the affected items.

2.87.15 Settlement authorities may make an emergency partial payment in advance of a final settlement upon the request of a claimant when a hardship situation exists. Do not make emergency partial payments beyond \$2,000.

2.87.15.1 In order to receive a partial payment, the claimant must file a claim for at least the amount of the partial payment. List enough lost or damaged items to support and justify the full partial payment. Claims personnel may suggest that the claimant list a few high-value items to cover the partial payment, rather than providing a lengthy list of small items. The claimant may later amend the claim for the full extent of the loss or damage. If the claims office determines a hardship exists and that, based on the claim form, any supporting documentation, and any inspection, the claim is clearly payable in an amount equal to or exceeding the proposed emergency partial payment, claims personnel prepare an acceptance agreement, have the claimant sign it, and arrange for the claimant to receive an immediate cash payment.

2.87.15.2 Claims offices may issue more than one partial payment to a claimant, if individual circumstances warrant.

2.87.16 When accepting a claim, claims personnel convert repair or replacement costs stated in foreign currency to US dollars. Claims personnel may use the military exchange rate or a commercial exchange rate that they obtain from a newspaper listing or commercial bank. For items that have been replaced or repaired using foreign currency, use the exchange rate in effect at the time the item was repaired or replaced. For items that have not been repaired or replaced, use the exchange rate in effect on the day the claim is received.

2.87.16.1 Claimants enter purchase prices in a foreign currency or the US dollar equivalent, as the claims office requests.

2.87.16.2 Claims personnel adjust the amount allowed up or down for items that claimants will later repair or replace using a foreign currency, if a significant change in the exchange rate occurs between the time the claimant files the claim and the time claims personnel adjudicate the claim.

2.87.16.3 Claims personnel may deviate from this general rule, if it appears that the claimant would receive a windfall as a result. Claimants may not receive reconsideration and further payment because a change in the exchange rate occurs after settlement authorities settle a claim.

2.87.17 Claims offices translate documents written in a foreign language before sending the claim to the General Claims Division for reconsideration or carrier recovery purposes. Provide translations with carrier recovery claims sent to US carriers and warehouse firms. Translate brief estimates of repair, receipts, and similar items necessary for payment verbatim. Claims offices may summarize long estimates, foreign police reports, and similar documents.

2.87.18 When authorities settle the claim, claims personnel record the appropriate action in the appropriate block on the claim form. The signature of the settlement authority verifies that the claim meets all requirements for payment in the amount specified or that the claim warrants denial.

2.87.19 Claims personnel prepare SF 1034 in the number of copies the local AFO requires and send the voucher with the original and a copy of the approval page of the claim form, or other approval document, to the finance office for payment. If the local AFO does not require SF 1034, claims personnel may submit the approval page of the claim form or other approval document with the appropriate fund citation noted on it. Do not substitute another form for SF 1034.

NOTE: The AFCIMS-prepared SF 1034 may be the simplest submission, even if the local AFO does not require it.

2.87.20 Claims personnel draft a memorandum of opinion for every claim denied or submitted for reconsideration. Use supporting memoranda for approvals and partial approvals as well. Provide enough detail in the memorandum so that the basis for the action recommended is clear. Include the following information:

- 2.87.20.1 The claimant's name, address, rank or pay grade, and status (NAFI employee, Red Cross employee, Army retiree, ROTC cadet, Reservist on active duty for training, foreign national employee, and so on). State whether the claimant is a proper claimant.
- 2.87.20.2 The date and place of the incident giving rise to the claim. Where relevant, state whether the incident occurred on or off base and whether it occurred at quarters, an authorized place, and so on.
- 2.87.20.3 The amount of claim, date of filing, and the date the claimant requested reconsideration. Explain any excessive delays in settling the claim or taking action on the request for reconsideration.
- 2.87.20.4 Provide a description of the incident with the relevant facts.
- 2.87.20.5 Summarize the issues that the claimant raises on reconsideration and provide a listing of the items that authorities have not settled.
- 2.87.20.6 Provide the factual and legal bases supporting the recommended action. When recommending denial based on the claimant's negligence, explain what conduct was expected of the claimant under the circumstances.
- 2.87.20.7 Specify the action recommended.
- 2.87.21 An erroneous payment is:
 - 2.87.21.1 A payment that settlement authorities make based on facts from the claimant that the authorities later determine to be incorrect or untrue.
 - 2.87.21.2 A payment that settlement authorities later determine they have made improperly or without legal authority. Settlement authorities must get erroneous payments back from the claimant. If the claimant refuses to repay voluntarily or fails to meet an arranged payment schedule, the claims office prepares DD Form 139 for the servicing AFO, or takes other appropriate action to establish and collect the debt. Claims offices ensure that they have first met procedural requirements, such as notifying the claimant. By signing the claim form, the claimant agrees to return payments, or consents to collection from other monies due because of incorrect or untrue information.
- 2.87.22 Claims offices must personally contact local transportation, contracting, and AFOs regularly to ensure that:
 - 2.87.22.1 Personnel moving to another base receive adequate counseling and standard claims handouts.
 - 2.87.22.2 Transportation authorities provide inspections when claims personnel request them.
 - 2.87.22.3 Contracting personnel handle DPM setoffs quickly.
 - 2.87.22.4 AFO personnel make emergency and small claims payments promptly.

Section O—Reconsideration

- 2.88 General Policy.** A claimant may request reconsideration of a partial approval or a denial of a claim. Claims personnel must be sensitive to claimants' assertions of unfair treatment and must fully explore and correct an error upon any indication that a claimant's grievance is well-founded.
- 2.88.1 Proper claimants and their agents may request reconsideration. Claims personnel treat a complaint made through a Congressional representative that a settlement was inadequate or inappropriate as a request for reconsideration.
 - 2.88.2 The settlement authority must reconsider a claim upon timely written request.
 - 2.88.2.1 Claims personnel make every effort to investigate the claimant's version of the facts.
 - 2.88.2.2 Original settlement authorities established by this instruction must act on reconsideration requests personally. They may not delegate this authority.
 - 2.88.2.3 Settlement authorities modify the initial settlement, if they determine that the initial settlement for any item is incorrect. Clearly state the basis for any change in the file. Review the request for reconsideration item by item.
 - 2.88.2.4 Upon reconsideration, the settlement authority makes payment for any item:
 - 2.88.2.4.1 That merits payment in full.
 - 2.88.2.4.2 That merits payment in full, less the standard depreciation.
 - 2.88.2.4.3 For which the claimant agrees to accept a lesser amount from the settlement authority.
 - 2.88.2.5 If the settlement authority does not grant all the relief requested, other than reductions for standard depreciation and agreed amounts, claims personnel send the claim to the General Claims Division, with recommendations and supporting rationale on the items that the settlement authority did not pay. Claims personnel advise the claimant by letter that the claim was sent to the General Claims Division.
 - 2.88.2.6 The General Claims Division decides all requests for reconsideration. The General Claims Division may reverse previous decisions on reconsideration, to include denying the claim in full, where appropriate. The decision of the General Claims Division is final and conclusive, and claimants may not appeal the decision to any other Air Force authority, agency, or court.
 - 2.88.3 Claimants submit requests for reconsideration within 60 days of the claim settlement date. Settlement authorities may waive the 60-day period for good cause.

2.88.4 A settlement authority may always reconsider the initial settlement of a claim without a written request, if the original action was in error or new facts reveal it to be incorrect.

Section P—Mobile Homes

2.89 Background Information. Mobile homes present special problems. Because mobile home shipments can result in enormous, uncompensated loss or damage for members and present unusual difficulties for claims adjudicators, claims offices must coordinate with their servicing transportation offices to ensure that members shipping mobile homes understand the risks and their responsibilities and that the transportation office does not authorize shipment of a mobile home unfit for shipment.

2.90 Latent Defects. Many carriers attempt to escape liability by attributing all damage to latent manufacturing defects. Settlement authorities do not consider loss or damage due to such a defect (as with any other mechanical defect) to be shipment-related.

EXCEPTION: If the carrier knew or should have known of the defect, and the claimant could not reasonably have been expected to know of it, consider the loss or damage due to the defect to be shipment-related.

2.91 When an engineer's report or other evidence shows that a defect, rather than the carrier's failure to take the necessary care, caused the damage, three rules apply:

2.91.1 If both the carrier and the claimant knew or should have known of the defect, and if the claimant took no corrective action and had the mobile home shipped anyway, do not pay the claim.

2.91.2 If the carrier knew or should have known of the defect, and the claimant could not reasonably have been expected to know of it, settlement authorities pay the claim and take action against the carrier.

2.91.3 If neither the claimant nor the carrier could reasonably be expected to know of the defect, do not pay the claim.

2.92 Supporting a Claim.

2.92.1 Before adjudicating such claims, claims personnel inspect the mobile home and get the following evidence, if possible:

2.92.1.1 DD Form 1800.

2.92.1.2 DD Form 1863.

2.92.1.3 DD Forms 1840 and 1840R.

2.92.1.4 DD Form 1412.

2.92.1.5 DD Form 1841.

2.92.1.6 Driver's statement.

2.92.1.7 Owner's statement.

2.92.1.8 Repair estimates.

2.92.1.9 Engineer's statement.

2.92.2 DD Form 1800, **Mobile Home Shipment Inspection Record**, shows a mobile home's condition before and after shipment. The carrier completes this document and both the carrier and the member sign it. Sections of the form are reserved for the origin and destination transportation office when a Government inspector performs a visual inspection of the mobile home at origin or destination. Because this form is vital to the claim process, settlement authorities do not pay a claim without it. Claimants may also list damages on DD Form 1840.

2.92.3 For shipments after 1 November 1987, DD Form 1863, **Accessorial Services-Mobile Home**, lists all services the carrier is required to provide, including line-haul, payment of tolls, overdimension charges, permits and licenses, antisway devices, axles with wheels and tires (rental and replacement), temporary lights, and escort services. Claimants may also list damages for shipments before 1 November 1987 on this form.

NOTE: Not all costs and services may appear on the GBL.

2.92.4 Beginning 1 November 1987, claimants must list later-discovered damages on DD Form 1840R, and send them to the carrier within 75 days of delivery.

NOTE: Timely notice on mobile home shipments differs slightly from such notice on other shipments. Item 306 of the carrier's rate solicitation states that, "Upon delivery by the carrier, all loss of or damage to the mobile home shall be noted on the delivery document, the inventory form, the DD Form 1800, and/or the DD Form 1840. Late[r] discovered loss or damage, including personal property within the mobile home, will be noted on DD Form 1840R not later than 75 days following delivery and shall be accepted by the carrier as overcoming the presumption of correctness of the delivery receipt."

2.92.5 The carrier and the member prepare DD Form 1412, **Inventory of Items Shipped in House-Trailer**.

2.92.6 If a Government representative does not inspect the mobile home at delivery, claims personnel request an inspection.

2.92.7 Claims personnel request the mobile home carrier to provide a statement from the driver of the towing vehicle within 14 days, explaining the circumstances surrounding the damage and other travel details. If the mobile home carrier does not respond, record this fact in the file. Because drivers' statements can be self-serving, authorities review them critically to determine whether the carrier is incorrectly attributing damage to a latent defect.

2.92.8 The claimant provides a statement listing:

2.92.8.1 The age of the mobile home.

2.92.8.2 The date and place of purchase.

2.92.8.3 Any prior damage or repairs.

2.92.8.4 All prior moves.

2.92.8.5 All prior claims.

2.92.9 When possible, the claimant obtains two repair estimates from firms in the business of repairing, rather than selling mobile homes. Such estimates should list:

2.92.9.1 The approximate value of the home before and after damage.

2.92.9.2 A detailed breakdown of the repairs needed and their cost.

2.92.9.3 The cause of damage.

2.92.10 The claimant needs only one estimate for small claims procedures. Do not use small claims procedures if a latent defect may have caused the damage. If the claimant can get only one estimate, claims personnel state the reason in the file.

2.92.11 Where the facts indicate the possibility of a latent defect, claims personnel help the claimant get a statement explaining the cause of damage from a qualified engineer or vehicle maintenance professional with expertise in mobile homes. Claims personnel coordinate in advance with civil engineering facilities engineers or local Reserve units with engineering expertise to provide (where possible) the necessary inspection.

2.93 Payable Damage. In adjudicating the claim, claims personnel award the claimant compensation for loss of or damage to the mobile home.

EXCEPTION: Settlement authorities do not pay when the damage is due to:

2.93.1 A latent defect.

2.93.2 The member's failure to place the mobile home in fit condition to ship.

2.93.3 The member's failure to have the roof resealed.

Compensate the member for the reasonable cost of repair estimates provided by mobile home repair firms and opinions prepared by qualified engineers. Do not compensate the claimant for services the carrier failed to perform or performed improperly or for other incidental expenses; refer the claimant to the transportation office for these matters. Such carrier services (listed on DD Form 1863 and the GBL correction notice) include:

2.93.4 Escort or pilot services, ferry fees, tolls, permits, overdimension charges, or taxes.

2.93.5 Storage costs or parking fees during travel.

2.93.6 Expand charges, charges for antisway devices, brakes, and brake repairs, and charges for adding or replacing axles, tubes, or tires.

2.93.7 Wrecker services.

2.93.8 Connecting or disconnecting utilities.

2.93.9 Blocking, unblocking, or removing or installing skirting.

2.93.10 The cost of separating or reassembling and resealing a double-wide mobile home.

2.94 Carrier Liability and Attempted Waivers. In the absence of additional coverage, the carrier's maximum liability for personal property shipped with the mobile home is \$250. The carrier is fully liable for damage to the mobile home itself. Carriers are also liable for damage that third-party contractors (such as wrecker services) cause. While some carriers may try to obtain waivers from the member, a waiver that the member signs is not binding on the United States. Because the Air Force is the contracting party, the owner has no authority to sign a waiver agreement, or any other document exempting the carrier from liability under the GBL.

Chapter 3

CARRIER RECOVERY CLAIMS

3.1 Statutes of Limitations:

3.1.1 International Commercial Air Shipments. The Government must file suit within two years after the delivery date. Personnel must notify these carriers of loss or damage in three days for luggage and seven days for other goods. Claims personnel send uncollectible claims to AFLSA/JACC within six months from the date of delivery.

3.1.2 All Other Carrier Recovery (CR) Claims. The Government must file suit within six years after the date when a responsible US official, service member, or employee knew or reasonably should have known the material facts that caused the claimed loss. The requirement to file a claim within nine months under commercial bills of lading does not apply to GBLs.

3.2 Claims Office Responsibilities. In aiming to provide thorough investigation and documentation, proper liability computation, and the timely notice essential to a good carrier recovery program, SJAs and claims officers must:

3.2.1 Stay aware of current transportation regulations and maintain copies of the Personal Property Traffic Management Regulation (PPTMR) on household goods packing and shipping.

3.2.2 Ensure that claims personnel properly compute carrier liability for the type of shipment involved.

3.2.3 Ensure that carriers receive timely notification of loss and damage via DD Form 1840R.

3.2.4 Brief TMO personnel regularly on claims and provide them with current claims information to give to shippers.

3.2.5 Review local packing, crating, drayage and storage contracts. Develop a good working relationship with TMOs, procurement offices, local carriers, and contractors.

3.3 Basis for Carrier Recovery Claims:

3.3.1 General Information. The basis for a CR claim is the failure of a carrier, warehouseman, or contractor to adequately protect goods entrusted to them for shipment. A carrier must deliver all household goods tendered in the same condition as when it took possession of them. The Government presents a legally sufficient case of carrier liability when it shows:

3.3.1.1 That the carrier received the goods in a certain condition.

3.3.1.2 That the carrier did not deliver the goods, or delivered them in a more damaged condition.

3.3.1.3 The amount of loss or damage.

3.3.2 Contractual Liability. The Interstate Commerce Act permits carriers to limit their liability by contract. Depending on the type of shipment or services involved, personnel can find the terms of the contract in one of three places:

3.3.2.1 For Government Bill of Lading (GBL) shipments, in the Tender of Service, found in DoD Regulation 4500.34, appendix A, and in a rate solicitation or tariff.

3.3.2.2 For NTS, in the Basic Ordering Agreement, found in DoD Regulation 4500.34, appendix M.

3.3.2.3 For direct procurement method (DPM) shipments, including "pack-and-crate" services at origin and destination, in the Federal Acquisition Regulations (FAR).

3.3.3 Government's and Claimant's Rights. The United States may collect amounts up to the carrier's or warehouse's proven contractual liability. This contract right is independent of any right that individuals have to collect from the United States under the Military Personnel and Civilian Employees' Claims Act. The United States may collect more than it pays under the Act, if it properly disposes of the funds received (that is, pays the excess to the claimant or a private insurer). The claimant is a third-party beneficiary to the contract and may receive carrier recoveries, in addition to awards under the Personnel Claims Act, up to the adjudicated value of the loss. The Government's contractual recovery rights are superior to subrogation claims, such as those that private insurers assert.

3.3.4 Assignment of Rights by Claimant to United States. The claimant assigns to the United States all claim rights against the carrier or contractor by signing a claim form (DD Form 1842 or AF Form 180). This assignment:

3.3.4.1 Creates a right of recovery on behalf of the United States.

3.3.4.2 Is an alternative method of recovery under the GBL contract.

3.3.4.3 Assures the carrier that the United States is the sole claimant.

3.3.5 Claimant's Responsibilities. The claimant must:

3.3.5.1 Provide any evidence that claims personnel require to support the claim.

3.3.5.2 Send any payment from the carrier to claims personnel

3.3.5.3 Not assert a claim against the carrier after receiving payment under the Military Personnel and Civilian Employees' Claims Act.

3.3.6 Setoff. If a carrier fails to pay the Government's claim within 120 days after receiving it (130 days from the date the claims office sends the demand), the claim is subject to collection by setoff. AFLSA/JACC collects claims by setoff through the Defense Finance and Accounting Service (DFAS). In accordance with 31 U.S.C. 3717, the Air Force charges interest payments, administrative costs, and penalties on overdue carrier recovery claims for GBL shipments only. Such claims do not become overdue until the 210-day mark (120 days plus 90 days). Because claims personnel begin setoff before that time, they do not charge costs and penalties in carrier recovery claims.

3.4 Methods of Transportation:

3.4.1 Through Government Bill of Lading (TGBL). A single GBL procures transportation and related services. The carrier is liable for loss and damage sustained at any time during the shipment of the property. The various types of shipment are:

- 3.4.1.1 Code 1 - Domestic door-to-door, motor van.
- 3.4.1.2 Code 2 - Domestic door-to-door, container.
- 3.4.1.3 Code 3 -International, door-to-door, container (Test Program)
- 3.4.1.4 Code 4 - International door-to-door, container.
- 3.4.1.5 Code 6 - International door-to-door, air container.
- 3.4.1.6 Code 7 - International land-water-land (LWL), baggage.
- 3.4.1.7 Code 8 - International land-air-land (LAL), baggage.
- 3.4.2 GBL with Government Transportation. The Government provides transportation during part of the movement, either by Government vessel or Air Mobility Command (AMC) aircraft.
- 3.4.2.1 The types of shipment are:
 - 3.4.2.1.1 Code 5.
 - 3.4.2.1.2 Code T.
 - 3.4.2.1.3 Code J.
- 3.4.2.2. Code 5. International door-to-door, container, surface, Government, ocean transportation. The carrier delivers the shipment to the Government at the origin port, the Government palletizes and provides ocean transportation and terminal services, and the carrier transports from the destination port to the place of delivery.
- 3.4.2.3. Code T. International door-to-door, container, Air Mobility Command (AMC). The carrier provides boxing and crating at origin and transportation to the AMC terminal, AMC transports to the destination AMC terminal, and the carrier transports to the place of delivery.
- 3.4.2.4. Code J. International land-air(AMC)-land baggage. The carrier palletizes and transports to the AMC terminal, AMC transports to the destination AMC terminal, and the carrier transports to the place of delivery.
- 3.4.3 Direct Procurement Method (DPM) Shipments. The Government:
 - 3.4.3.1 Arranges transportation through a series of contracts to move the property along a predetermined route.
 - 3.4.3.2 Issues separate documents for each segment of the move.
 - 3.4.3.3 Obtains packing and storage services at the point of origin through a local contract or by using Government facilities.
 - 3.4.3.4 Provides shipping containers.

NOTE: Contractors may also provide shipping containers.

- 3.4.3.5 Issues a GBL to a line haul or motor freight carrier.
- 3.4.3.6 Routes shipments through commercial or Government terminals.
- 3.4.4 The Military Sealift Command (MSC), the AMC, or commercial air carriers provide overseas transportation. Local contractors or Government facilities provide destination transportation and unpacking.

3.5 Claim Forms. Claims personnel complete portions of DD Form 1844 to document carrier recovery claims.

- 3.5.1 Complete the first "Exception" block with all exceptions noted on the origin inventory, if:
 - 3.5.1.1 The total number of items claimed is 10 or more.
 - 3.5.1.2 PED is an issue.
 - 3.5.1.3 They plan to send the claim to JACC.
- 3.5.2 Complete the second "Exception" block if a second inventory or rider to the origin inventory exists.
- 3.5.3 If no subsequent inventories or riders to the origin inventory exist, use the second "Exception" block to list the damages that the claimant has noted on DD Form 1840 or 1840R.

EXCEPTION: Leave the "Weight of Line Item" Block blank on all code 1 or code 2 Shipments.

- 3.5.4 Do not write claims inspection comments on the claim forms.
- 3.5.5 Review the forms to ensure that the inspection report addresses all exceptions that the carriers and the claimant list.

3.6 Demand on Carrier. In making a demand on a carrier, claims personnel must send a demand letter to the carrier immediately after paying a personnel claims.

- 3.6.1 Attach to the letter:
 - 3.6.1.1 A copy of the GBL, if applicable.
 - 3.6.1.2 A copy of the adjudicated claim form showing the carrier's liability (The DD Form 1844) and the AFCIMS Summary of Adjudication, parts I, III, and IV, not I, II & III.
 - 3.6.1.3 Repair estimates.
 - 3.6.1.4 DD Forms 1840 and 1840R.
 - 3.6.1.5 Inspections.
- 3.6.2 Claims personnel assert a claim against a carrier for an amount greater than the Government's payment to the claimant when:

- 3.6.2.1 A private insurer pays for part of the loss.
- 3.6.2.2 The maximum allowances in the *Allowance List - Depreciation Guide* limit the Government's payment.
- 3.6.2.3 The carrier's adjudicated value exceeds the Air Force adjudicated value.
- 3.6.3 Pay any excess collection to the claimant or the insurer. Claims personnel do not promise additional payment to the claimant before collecting from the carrier.

3.7 Determining Carrier Liability. In determining carrier liability, claims personnel follow five steps:

- 3.7.1 Proving a shipment loss occurred.
- 3.7.2 Determining who had responsibility for the property at the time of loss.
- 3.7.3 Excluding any factors that would relieve the carrier of liability.
- 3.7.4 Verifying the type and limit of liability.
- 3.7.5 Computing the liability.

3.8 Proving Shipment Loss. Claims personnel can prove shipment loss, if they find evidence that the carrier did not deliver all household goods tendered, or that it did not deliver them in the same condition as at origin.

- 3.8.1 Claims personnel use exceptions, which the shipper notes at delivery on DD Form 1840 or within 75 days on DD Form 1840R, to show that loss or damage was shipment-related.

NOTE: Refer to the *Military-Industry Memorandum of Understanding on Loss or Damage Rules*, and chapter 2, section L. Failure to note loss or damage on DD Form 1840 or 1840R within 75 days creates a presumption that loss or damage was not shipment-related. Do not assert a demand against the carrier for any item the claimant did not properly note on DD Form 1840, or a timely DD Form 1840R.

EXCEPTION: Claims personnel may assert a demand beforehand when good cause exists to extend the DD Form 1840R time period.

- 3.8.1.1 The household goods descriptive inventory that the carrier prepares when it accepts the goods determines the condition of the shipment at origin. However, if an inspection or other evidence reveals that the carrier inflated the damages, do not accept a carrier's denial of liability based solely on the inventory.

3.9 Responsibility for Property:

- 3.9.1 The carrier agrees to accept liability for goods lost or damaged while in its possession. Often the party in actual possession of the goods is not the one with legal liability, such as when an agent handles a shipment for a through government bill of lading (TGBL) carrier. In a TGBL shipment, the Government directs the carrier to move a shipment from one point to another, and the carrier makes all the arrangements necessary to meet the transportation requirements. One contract (GBL) exists, and the TGBL carrier is solely responsible for loss and damage.

- 3.9.2 The Government makes a series of contracts with several contractors for direct procurement method (DPM) shipments. Each carrier or contractor is responsible only for the portion it actually controls.

NOTE: Often it is difficult to show who had responsibility for the goods when the damage occurred.

- 3.9.2.1 Each party taking possession of a shipment records its condition in writing. If DPM contractors do not take exceptions, claims personnel assume that the last one handling the shipment is responsible for the loss or damage.

- 3.9.3 Carrier responsibility for property generally expires on the 181st day of Storage-in-transit (SIT).

EXCEPTION: The TMO extended the SIT.

- 3.9.3.1 Storage charges and liability for loss occurring after the 180th day become the member's responsibility. If transportation authorities issue a local contract under the old GBL to deliver the property, either the local contractor or the TGBL carrier is liable for the loss. The GBL carrier is liable, if it bills the Government for delivery to the member's residence.

- 3.9.4 Claims personnel use the household goods descriptive inventory (evidence of a shipment's condition at a particular time while in possession of a particular carrier) to prove carrier liability.

- 3.9.4.1 The carrier may prepare a new inventory reflecting the condition of the goods each time a shipment changes hands. Claims personnel ask for multiple inventories for Government claims in which more than one party is responsible for a shipment.

- 3.9.4.2 The GBL carrier must sign the warehouse's inventory when it removes a shipment from nontemporary storage (NTS), but may prepare an exception sheet known as a "rider." Both the carrier and warehouse must sign the rider, which controls liability, for the items listed. The GBL carrier is liable for any damage or loss not listed on the previous inventory or rider.

- 3.9.4.3 Claims personnel resolve disagreements (such as who prepared an inventory or the validity of signatures) between a carrier and a warehouse by requesting an advisory opinion from the Military Traffic Management Command Regional Storage Management Office (MTMC RSMO) of the area where the shipment was stored.

3.9.4.4 The RSMO contracting officer:

3.9.4.4.1 Determines the liability between the warehouse and the carrier.

3.9.4.4.2 Collects any amounts due from the warehouse.

3.9.4.4.3 Returns the file for any further action against the carrier.

3.9.4.5 Claims personnel use the contracting officer's determination in settlement negotiations with the carrier.

3.9.4.6 A carrier or contractor may overcome the presumption of liability that the inventory creates by presenting convincing proof to the contrary.

3.10 Exemptions from Liability. The claims office determines whether the cause of damage relieves the carrier of liability.

3.10.1 DPM contracts have no exclusions from liability. The contractor is liable for any loss or damage occurring while it possesses the goods.

3.10.2 Most rate solicitations relieve GBL carriers from liability for certain causes. The exclusionary clauses vary. Claims personnel consult the applicable rate solicitation, if a carrier denies liability based on an exclusionary clause. To avoid liability, the carrier must prove that a valid exception applies. The most common exclusions are:

3.10.2.1 Acts of God.

3.10.2.2 Negligence of the owner.

3.10.2.3 War and nuclear weapons.

3.10.2.4 Riots and strikes.

3.10.2.5 Inherent vice of the items, such as furniture made from green, improperly cured wood that dries and splits during shipment, or rubber gaskets in washing machines and refrigerators that dry out during long periods in storage.

3.10.3 The exclusions do not apply when the shipper declares increased valuation higher than that set forth in the basic rate solicitation. The exclusions do not apply when the shipper declares increased valuation higher than that set forth in the basic rate solicitation.

NOTE: See the GBL for this information.

3.10.4 The NTS contract states that the warehouse is not liable "for any loss or damage to household goods which is caused by acts or conditions beyond its control and without its fault or negligence." The contractor must prove it was not negligent in causing the loss.

3.11 Rates of Liability. Claims personnel review the GBL or contact the traffic management office (TMO) to determine the carrier's or contractor's rate of liability.

The most common liability rates are:

3.11.1 For TGBL CONUS (including Alaska) shipments, \$1.25 times the net weight of the shipment.

3.11.2 For international TGBL shipments, \$1.25 times the net weight of the shipment for shipments picked up on or after 1 October 1995.

3.11.2.1 \$.60 per pound per article for shipments picked up before 1 Oct 93.

3.11.2.2 \$1.80 per pound per article for shipments picked up on or after 1 Oct 93 and before 1 Oct 95.

3.11.3 For lump sum valuation shipments in CONUS and Alaska only, a member-selected sum greater than \$1.25 per pound times the net weight of the shipment (option 1).

3.11.4 For full-replacement protection GBL shipments in CONUS and Alaska only, either \$3.50 per pound times the net weight of the shipment or \$21,000.00, whichever is greater (option 2).

3.11.5 For GBL international air cargo shipments, \$9.07 per pound.

3.11.6 Compute liability on the packed weight of each item.

3.11.7 For DPM shipments, including both locally contracted packing, crating, and drayage (that is, off-base to on-base moves) and long-distance DPM shipments:

3.11.7.1 \$.60 per pound per article for both packing and crating contractors.

3.11.7.2 \$.10 to \$2.50 per pound per article for GBL motor freight carriers.

3.11.7.3 \$1.25 per pound times the net weight of the shipment for local drayage.

3.11.8 For NTS contractors, \$50.00 per inventory line item, prior to 1 Jan 97; \$1.25 per pound times the net weight of the shipment on or after 1 Jan 97.

3.11.8.1 Claims personnel contact the MTMC RSMO serving the area where the warehouse is located for information on a particular contract.

3.11.9 For air shipments (hand-carried baggage), claims personnel contact the TMO for baggage liability information on commercial and AMC passengers.

3.12 Computing Liability. The carrier is liable on each item for the depreciated replacement cost, the repair cost, or its contractual liability, whichever is least.

EXCEPTION: For shipments involving full replacement protection, the carrier is liable without regard to depreciation.

3.12.1 For claims involving a released value of a specific amount times the net weight of the shipment (\$1.25 times net weight of shipment), claims personnel compute the carrier's liability by multiplying the released value times the net weight of the shipment to determine the carrier's maximum liability for the shipment.

3.12.1.1 Hold the carrier liable up to its maximum liability for the repair of, or depreciated replacement cost of, items properly noted on DD Forms 1840 or 1840R as damaged or missing, after making any necessary adjustments for:

3.12.1.1.1 Preexisting damage (PED).

3.12.1.1.2 Non-shipment-related damage, including internal damage.

3.12.2 For claims involving a released value of a specified amount per pound per article (\$.60 per pound per article), claims personnel determine what is a single article or item and the weight "per pound per article."

NOTE: Each shipping piece or a package with its contents listed as a separate entry on the household goods descriptive inventory is an article (for example, a sofa, piano, table, or a container, such as a barrel of dishes or a carton of books).

NOTE: The "weight per pound per article" refers to either the weight of an individual item (if not packed) or of the entire packed container containing the damaged item.

3.12.2.1 The total parts of an article disassembled for shipment constitute one article for liability purposes.

EXCEPTION: For NTS, the liability is \$50.00 per line item for shipments placed into storage before 1 Jan 97; \$1.25 per pound times the net weight of the shipment after 1 Jan 97.

3.12.2.2 After locating the article's weight in the *Joint Military-Industry Table of Weights* or in a catalog (if the item's weight is not in the table), multiply the weight by the liability rate to obtain the maximum carrier liability.

3.12.2.3 Reduce the carrier liability as necessary based on:

3.12.2.3.1 Depreciation.

3.12.2.3.2 PED.

3.12.2.3.3 Non-shipment-related damage, including internal damage.

3.12.3 **NOTE :** The *Allowance List - Depreciation Guide* contains some items for which the carrier's depreciation rate is less than the depreciation rate that the Air Force uses. In these instances, assert the carrier recovery for each item for the higher amount, not the amount that the Air Force paid. Likewise, assert a carrier recovery claim for an amount greater than that paid by the Air Force, if the Air Force based its payment on the maximum allowable on that item in accordance with the *Allowance List - Depreciation Guide*. If claims personnel recover the higher amount, they pay the claimant the difference.

3.13 Factors Affecting Liability:

3.13.1 Computing Depreciation. Claims personnel use the rates in the "Carrier Recovery Depreciation" column of the *Allowance List - Depreciation Guide* to compute depreciation based on replacement cost.

NOTE: The carrier industry has agreed to these rates. Some of these rates differ from those used for the personnel claim portion of the claim. If no depreciation rate is listed, use the rate in the personnel claims column.

3.13.2 Preexisting Damage (PED). PED is damage already in existence when the carrier receives the property. The carrier must note PED on the inventory at the time of pickup, not at the warehouse after pickup. The carrier is not liable for repair of PED.

EXCEPTION: The carrier is liable if repair of the shipment damage must include the PED.

3.13.2.1 Where PED forms a major portion of the total damage, claims personnel adjust the claim by deducting the cost to repair the old damage, or a reasonable percentage for PED, from the total repair or replacement cost. Base this deduction upon the claims office inspection of the item.

3.13.3 Repair Costs.

3.13.3.1 For shipments picked up after 1 Jan 92, use the *Military-Industry Memorandum of Understanding on Loss and Damage Rules* (1 Jan 92), if a carrier's itemized estimate obtained from a responsible firm is the lowest estimate overall, the claims office must use it when:

3.13.3.1.1 They receive it before adjudicating the claim.

3.13.3.1.2 They receive it within 45 days after delivery, even if the claimant has received payment.

3.13.3.1.3. The carrier demonstrates that the claimant's estimate was unreasonable.

3.13.3.2 Claims personnel do not use carrier provided repair estimates where the repair firm:

3.13.3.2.1 Does not provide an itemized estimate.

3.13.3.2.2 Lacks the skill to do the repairs.

3.13.3.2.3 Cannot perform the work in a timely manner.

3.13.3.2.4 Is known to provide unreasonable estimates.

3.13.3.2.5 Is located outside a reasonable distance from the claimant's home.

3.13.4 Lack of Exceptions. A carrier is not liable for loss or damage not identified at delivery or by written notice within 75 days of delivery. **EXCEPTIONS:**

3.13.4.1 A carrier is liable if the claimant shows good cause.

3.13.4.2 A carrier is liable when independent evidence exists of shipment damage.

3.13.5 Items Packed by Owner (PBO). A carrier is liable for damage to the items in a carton, if it accepts a PBO item for shipment. Claims personnel do not accept a carrier's denial of a PBO item.

3.13.6 Items Picked Up From NTS. A carrier is liable for damage to items in a carton that it picks up from an NTS warehouse. **EXCEPTION:** The carrier is not liable if it creates a separate inventory or an exception sheet called a rider, which identifies damage.

3.14 Liability for Code 5 and T Shipments. Because both the Government and the carrier move these shipments, and it is often not possible to tell who had the property when the loss or damage occurred, the "50-50" rule is a compromise.

3.14.1 Claims personnel compute the carrier's liability and assert the claim for 100 percent of that liability when no proof exists as to where loss or damage occurred. The Government offers to accept payment of 50 percent of the liability, if the carrier pays that amount within 120 days from receipt of the claim.

3.14.2 If evidence exists that the loss or damage occurred while either the carrier or the Government had control of the shipment, the "50-50" rule does not apply. If the carrier caused the loss or damage, settlement authorities assert for 100 percent of liability. If the damage or loss occurred under Government control, assert no claim against the carrier.

3.15 Liability for Code J Shipments:

3.15.1 Carriers agree to assume full liability for Code J shipments, even if loss occurs during Government handling.

3.15.1.1 Claims personnel consult the GBL for the proper shipment code. Do not confuse these shipments with DPM shipments.

3.15.2 Claims personnel use the *Joint Military-Industry Table of Weights* to determine liability for unaccompanied baggage shipments being shipped as Code J.

The carrier conducts an inventory of Code J shipments in a similar manner to Code 4 shipments.

3.15.2.1 For items packed in internal cartons whose size is properly noted on the inventory, determine the weight by referring to the *Table of Weights*.

3.15.2.2 For items packed in internal cartons whose size is not properly noted on the inventory, determine the weight by referring to the notes at the end of the *Table of Weights*.

NOTE: These notes require that claims personnel assign a weight to unidentified cartons according to contents, but do not permit a weight of less than 25 pounds.

3.15.2.3 For items not packed in internal cartons, but with an assigned weight in the *Table of Weights*, determine the weight by referring to the *Table of Weights*, including the notes for items whose dimensions are not properly specified.

3.15.2.4 For items that are normally packed in internal cartons under the Tender of Service or other appropriate MTMC guidance, but not listed on the inventory as being packed in a carton, determine the weight by applying the most likely carton size that would contain these items (for example, dishes in a dishpack or clothes in a wardrobe).

3.15.2.5 For single items not normally packed in internal cartons and not listed separately in the *Table of Weights*, or for bundles of items such as brooms, rakes, tools, fishing poles, and so on, determine the weight of the items by using the stated or appropriate bundle size weight listed in the *Table of Weights*.

3.15.2.6 If claims personnel cannot establish liability by any of the above methods (usually when the inventory significantly fails to identify how the items were packed), they use the gross weight of the relevant shipping container.

3.16 Liability for DPM Shipments:

3.16.1 Claims personnel identify DPM shipments by examining the GBL. A shipment is a DPM if:

3.16.1.1 The two-letter service code begins with "B" or "H."

NOTE: See DoD Regulation 4500.34, appendix G, for an explanation of DPM Codes.

3.16.1.2 The letters "DPM" appear.

3.16.1.3 The GBL liability rate is \$0.10 to \$2.50 per pound per article.

NOTE: Only DPM motor freight carriers have this liability rate.

3.16.1.4 A carrier or TMO delivers the shipment to either a carrier or a TMO.

3.16.1.5 The GBL carrier is a motor freight carrier, rather than a household goods mover.

NOTE: The *Domestic and Mobile Home Personal Property Carrier Approvals* book that MTMC publishes does not list motor freight carriers.

3.16.2 Because several contractors handle DPM shipments, claims personnel hold the destination contractor liable, if there is no specific evidence showing which contractor caused the loss or damage. The destination contractor may overcome the presumption of liability with:

3.16.2.1 Exception sheets.

3.16.2.2 A TMO opinion of improper packing.

3.16.2.3 Other convincing evidence showing that another party is responsible.

The exceptions that a carrier lists must be specific and relate directly to the type of damage claimed.

3.16.3 Claims personnel assess the rate of liability, based on which of the contractors is liable. Origin and destination contractors are liable at \$0.60 per pound per article. Motor freight carriers are liable at \$0.10 to \$2.50 per pound per article.

3.16.4 Claims personnel use the procedures set forth in the DPM contract to resolve disputes that contractors raise over the weights of an article. Consider each separately packaged item listed as a line item on the household goods descriptive inventory as an article for DPM purposes. Do not consider the shipping crate or external container to be an article. If the inventory lists several shipping containers with a general description of their contents, consider each shipping container to be an article.

3.17 Liability for Mobile Homes:

3.17.1 A carrier is liable for the fair market value of the mobile home and its built-in equipment and for items transported in the mobile home up to \$250, or a greater amount if it is listed on the GBL.

3.17.2 Carriers move most mobile homes under a TGBL. The carrier:

3.17.2.1 Plans the move.

3.17.2.2 Moves the mobile home from origin to destination.

3.17.2.3 Complies with state and interstate regulations.

3.17.2.4 Delivers the mobile home to an accessible site.

3.17.3 The carrier must inspect the mobile home to determine if it is road-worthy. The mobile home owner corrects defective conditions to the carrier's satisfaction.

The TMO resolves disputes between the carrier and the owner. The carrier assumes the risk of shipment damage caused by any defect it discovers, or should have discovered but fails to correct.

3.17.4 The carrier must deliver the mobile home in the same condition in which the owner offered it for shipment at the point of origin, or pay the damages. Exceptions to liability are:

3.17.4.1 Normal wear and tear.

3.17.4.2 Mechanical failure.

3.17.4.3 Undiscovered structural defects.

3.17.4.4 Acts of God.

3.17.5 The owner may purchase Act of God insurance. Claims personnel note the purchase of insurance on the GBL.

3.17.6 The carrier must present supporting evidence to prove it is not liable for shipment damage. The carrier has the burden of proof.

3.17.6.1 Because carriers often deny liability by alleging structural damage and may claim that all mobile homes sustain damage when moved, claims personnel do not accept a simple written allegation from the carrier. The carrier must prove that the mobile home was of poor construction and that the poor construction was the sole cause of damage.

3.17.6.2 Claims personnel must be prepared to answer the carrier's allegation with the same evidence as they originally gathered to support shipment loss and approve the claimant's personnel claim. Contact the mobile home manufacturer, if the carrier refuses to pay the Government's claim because of poor construction or a structural defect in the mobile home.

3.17.7 With DPM shipments to Alaska, responsibilities vary. Claims personnel carefully review the shipment documents and check with the TMO to pinpoint liability.

3.18 Monitoring Carrier Recovery Claims:

3.18.1 A carrier, warehouse, or contractor must respond in 120 days after receiving a claim in one of four ways:

3.18.1.1 Pay the claim.

3.18.1.2 Deny the claim.

3.18.1.3 Make a firm settlement offer.

3.18.1.4 Explain the reason for delay in doing any of these things.

3.18.2 Claims personnel promptly answer all correspondence from the carrier, such as offers of settlement and requests for information. In accordance with the *Military-Industry Memorandum of Understanding on Loss and Damage Rules* (1 Jan 92), if the carrier makes an offer to settle within 90 days of receiving the demand, claims offices may not set off a claim without giving the carrier a written response.

3.18.3 Ninety days after asserting the claim, claims personnel send a letter to the carrier informing it that unless the parties involved can settle the claim within 30 days, the claims office will begin a setoff.

3.19 Carrier Recovery Checks:

3.19.1 Checks Received During Settlement Negotiations:

3.19.1.1 Claims personnel send satisfactory settlement checks to the local AFO within five workdays of receipt, with DD Form 1131, **Cash Collection Voucher**, for deposit into the current claims fund account. Maintain suspense copies of approved cash collection vouchers. Ensure that the dollar amounts on the vouchers that the AFO returns match the amounts on the suspense copies, and initial the returned voucher to indicate a proper match. File the initialed, receipted voucher copy in the claim file and close the claim.

3.19.1.2 Claims personnel retain unsatisfactory settlement checks until receiving an acceptable settlement. Forward unsatisfactory checks to AFLSA/JACC when submitting claim files for setoff.

3.19.1.3 Claims personnel retain checks with an expired time limit. Do not deposit them. Return old checks and request new ones, if carriers make satisfactory settlement after the time limit expires.

3.19.2 Checks Received after Sending the Claim File for Setoff. Upon receiving a check after sending the claim file for setoff, claims personnel contact the office with the claim file (AFLSA/JACC, MTMC RSMO, or contracting office) for instructions. Do not deposit the check, unless the appropriate office returns the file. AFLSA/JACC does not return any files for check-cashing purposes after a base sends the file to AFLSA/JACC for setoff action against a GBL carrier. Return the check to the carrier, if AFLSA/JACC has already begun setoff action.

3.20 Setoff. Claims personnel make a diligent effort to collect carrier recovery claims before sending them for setoff. Do not routinely settle for less than the full amount of the carrier's liability. An offer does not stop the 120-day period. Compromise only for a computation error or a compelling reason in the best interests of the Air Force.

3.20.1 Claims personnel send claims for setoff when the carrier:

3.20.1.1 Denies the claim or makes an unacceptable final offer. The settlement authority may send the file immediately upon receiving a denial or unacceptable final offer. Consider a carrier's rejection of further negotiations as a final denial.

3.20.1.2 Fails to pay, denies a claim, or makes a firm settlement offer for less than the full amount within 130 days from the date the claims office sends the claim to the carrier. If negotiations are current, active, and potentially favorable, the settlement authority may keep the claim for 180 days.

3.20.2 Claims personnel submit files for setoff differently, according to the type of carrier.

3.20.2.1 Send claims against GBL carriers to AFLSA/JACC. Send a transmittal letter and two copies, using the setoff letter format in the Claims Adjudicator's Handbook. When sending documents or requesting information on files sent to AFLSA/JACC for setoff, provide the claimant's name, the complete claim number, the carrier's name and Standard Carrier Alpha Code (SCAC), and the date the file was sent to JACC.

3.20.2.2 Send claims against NTS contractors to the proper MTMC headquarters office, as shown on the MTMC RSMO map, using the appropriate setoff letter format in the *Claims Adjudicator's Handbook*.

3.20.2.3 Send claims against DPM contractors, both local and international, to the contracting officer who administers the contract for the responsible carrier. Follow the disputes clause of the FAR for DPM contract claims. This clause requires the contracting officer to issue a written final decision in any case involving the collection of contract claims. (See FAR section 52.233-1, 48 CFR 52.233-1.)

3.20.2.4 Maintain a "shell" file for NTS and DPM claims sent for setoff. Ensure that it contains at least one copy of the transmittal letter. Request the status from the appropriate officer 45 days after sending the file for setoff and every 30 days thereafter.

3.20.2.5 Copy the pertinent documents for files with multiple CR claims. Make another file, or use the shell file, to pursue active CRs.

3.21 AFLSA/JACC Setoff Determinations. AFLSA/JACC evaluates carrier recovery claims for administrative offset on a case-by-case basis to determine whether it is in the best interest of the United States to collect the claim by administrative setoff and whether collection will prove successful and cost-efficient.

3.21.1 The remedy of setoff is a well-settled principle of common law that permits any creditor to apply money that it owes the debtor toward paying off what the debtor owes the creditor.

NOTE: The Interstate Commerce Act does not affect the Government's common law right of setoff. When the United States decides to use setoff, only the requirements of procedural due process limit its action. In the case of carrier recovery claims, claims offices meet these requirements when they send the carrier a demand and relevant claims documents, and give the carrier an appropriate period of time to respond.

3.21.2 If the carrier requests a review of the determination of indebtedness within a reasonable period of time, AFLSA/JACC reviews the record before determining to collect the claim by administrative setoff. If AFLSA/JACC determines administrative setoff is in the Government's best interest, it informs the carrier that it plans to collect the claim by administrative setoff, including interest, penalties, and administrative costs, as appropriate. AFLSA/JACC then requests the Defense Finance and Accounting Center to collect the claim, interest, penalties, and administrative costs, as appropriate.

3.22 Uncollectible Carrier Recovery Claims:

3.22.1 The Government cannot generally collect loss and damage claims directly from carriers who have filed for reorganization or bankruptcy.

3.22.2 AFLSA/JACC pursues collection through bankruptcy courts, cargo liability insurance companies, or the General Services Administration.

3.22.3 AFLSA/JACC sends a message directing all Air Force claims offices with open, uncollectible claims against a particular carrier to send them to AFLSA/JACC. Claims personnel settle the personnel claims portion of each claim, accurately compute and promptly assert carrier liability, and send the claim to AFLSA/JACC in a properly labeled folder.

3.23 Dividing Carrier Collections With the Insurance Company:

3.23.1 Claims personnel assert the carrier recovery claim for the full amount of the carrier's liability, even if an insurance company pays the full amount for an item. If an insurer pays a portion of a claim, pay that company its prorated share of the carrier recovery. Make these payments to the insurer whether or not the insurer requests them. Pay the insurance company only when the total due on a claim is more than \$25.

3.23.2 Air Force and Insurer Each Paying Part of a Claim:

3.23.2.1 If there was a lump sum or non-itemized insurance payment, claims personnel prorate the collection from the carrier according to the total sum that each party paid on the whole claim. Find the percentage of the total the insurer paid. Pay the insurer that percentage of the carrier collection.

3.23.2.2 If there was an itemized insurance payment, claims personnel prorate the collection from the carrier according to the total sum that each party paid on each item. Find the percentage of the amount the insurer paid on a given item. Pay the insurer that percentage of the amount recovered from the carrier for that item.

3.23.2.3 Claims personnel keep the full amount collected from the carrier for an item that the Air Force paid for entirely. Pay the insurer the full amount collected from the carrier for an item that the insurer paid for entirely.

3.23.2.4 Deposit the total amount received from the carrier in the local AFO. Reimburse the insurance company, using a separate payment voucher.

3.24 Claims That Should Not Be Asserted. In accordance with an agreement that military claims services and representatives of the carrier industry have signed, the Air Force does not assert carrier recovery claims for sums less than \$25.00. In addition, carriers do not request military claims services to make refunds on claims for carrier overpayments of less than \$25.00.

3.25 Unearned Transportation Charges

3.25.1 A carrier is not entitled to payment for any part of the shipment lost or damaged beyond repair. The Joint Personal Property Shipping Office (JPPSO), JPPSO-SAT/XOP, 613 NW Loop 410 Suite 400, 8961 Tesoro Drive, Suite 300, San Antonio TX 78216-5518, collects unearned transportation charges for all Air Force shipments except for DPM and NTS shipments. Claims personnel take the following steps to recoup unearned transportation charges.

3.25.1.1 After settlement of any carrier recovery claim for items missing or damaged beyond repair as a result of household goods or unaccompanied baggage shipment, or if a mobile home is damaged beyond repair, mail one copy of the DD Form 1843 or the CR Claim Assertion Letter, together with the DD Form 1844 or AF Form(s) 180/180A, AFCIMS adjudication sheet(s), and a copy of the GBL to JPPSO-SAT/XOP. Prior to forwarding the claims package to JPPSO, mark the dollar amount paid by the carrier for each item missing or damaged beyond repair with a highlighter marker. Claims which involve repairable items only are not forwarded to JPPSO.

3.25.1.2 If the carrier has not offered a satisfactory settlement within 130 days of assertion, and the claim is being forwarded to AFLSA/JACC for setoff, mail one copy of the DD Form 1843 or the CR Claim Assertion Letter, together with the DD Form 1844 or AF Form(s) 180/180A, AFCIMS adjudication sheet(s), and a copy of the GBL to JPPSO-SAT/XOP at the same time the claim is forwarded to AFLSA/JACC. Prior to forwarding the package to JPPSO, and the file to AFLSA/JACC, mark the

dollar amount paid by the Air Force for each item missing or damage beyond repair with a highlighter marker. Claims which involve repairable items only are not forwarded to JPPSO.

3.25.1.3 When preparing a package to be forwarded to JPPSO for any reason, use a black marker to line through any item(s) on the AF Form(s) 180/180A, DD Form 1844 , and AFCIMS adjudication sheet, for which the carrier should not be held liable.

Chapter 4

PROPERTY DAMAGE TORT CLAIMS IN FAVOR OF THE UNITED STATES

4.1 Scope. This chapter describes the principles and procedures by which the United States asserts and collects claims for damage to its property through someone's negligence or wrongful act. Refer to these claims as "Government" or "G" claims. As a property owner, the Air Force is often the victim of a tort and has the right under the Federal Claims Collection Act, 31 U.S.C. 3701, 3711-3719, to collect for tortious damages. It is Air Force policy to aggressively pursue property damage claims. Each supervisory claims authority must ensure that its personnel promptly discover all potential claims under this chapter and fully investigate and vigorously pursue them. This chapter does not cover maritime claims in favor of the United States or hospital recovery claims.

4.2 Assertable Claims. Claims personnel may assert claims against a tortfeasor for loss or damage to Government property in these instances:

4.2.1 Assert a claim if the loss or damage to Government property is for \$100 or more. If the loss or damage is less than \$100, assert the claim if it can be collected easily.

4.2.2 Assert a claim if it is based on a contract and the contracting officer does not intend to assert a claim under the contract. Document the contracting officer's decision not to assert a claim for the file. If a difference of opinion exists between the claims office and the contracting office as to whether the claim is assertable, or whether it should be pursued through procurement or claims channels, document the disagreement and send the claim to AFLSA/JACC.

4.2.3 Assert claims for property loss or damage if the claim arises from the same incident as a hospital recovery claim. Process the two claims separately, but investigate them together.

4.2.4 If the tortfeasor or his insurer presents a claim against the Government arising from the same incident, assert a claim. Process both the pro-Government and anti-Government tort claims together.

4.2.5 Assert the claim as a counterclaim under an international agreement. Assert these claims in accordance with AFI 51-501, chapter 4.

4.2.6 Due to the unique nature of product liability issues and claims litigation, obtain AFLSA/JACC approval before asserting a claim, using a products liability theory of recovery.

4.3 Nonassertable Claims . Claims personnel do not assert a claim for loss or damage of Government property in these instances:

4.3.1 Do not assert a claim for reimbursement against military or civilian employees for claims paid by the United States due to that employee's negligence.

4.3.2 Do not assert claims for loss or damage that a nonappropriated fund employee causes to Government property while on the job, or caused by a Government employee with accountability for the property under the report of survey system.

4.3.3 Do not assert a claim for loss or damage to nonappropriated fund property that is assertable under other parts of this instruction.

4.3.4 Do not assert a claim for monies to be recovered from a foreign government or any of its political subdivisions. AFLSA/JACC may authorize exceptions to this rule.

4.4 Asserting the Claim. After investigating the incident giving rise to a potential property damage claim, and after identifying the appropriate tortfeasors, the base SJA asserts the claim against the tortfeasors by sending via certified mail, return receipt requested, the original and one copy of a **Notice of Claim**. The notice provides sufficient notification of the facts and circumstances surrounding the incident, including:

4.4.1 A reference to the statutory right of the United States under the Federal Claims Collection Act to collect for the loss or damage.

4.4.2 A demand for payment for loss or damage to the property, or a demand for the restoration of that property.

4.4.3 A description of the loss or damage.

4.4.4 The date and place of the incident giving rise to the claim.

4.4.5 The name, office address, and telephone number of the claims personnel to contact regarding the claim.

4.5 Referring a Claim to US Attorney or DoJ. If collection efforts are unsuccessful, the SJA may refer a claim to the US Attorney or the DoJ for initiation of a lawsuit. Send no claim to the US Attorney or the DoJ without prior AFLSA/JACC approval. Contact AFLSA/JACC to discuss referral of the claim.

4.6 Statute of Limitations. The United States must file a lawsuit for loss or damage of Government property, based in tort, within three years after the date when a responsible official of the United States knew or reasonably should have known the material facts that resulted in the claimed loss. (See 28 U.S.C. 2415b.)

NOTE: Suits based in contract, or upon some other theory or upon state law, may have a different statute of limitations period. The SJA ensures the correct governing statute is applied.

4.6.1 Claims personnel must never lose a claim due to the expiration of the statute of limitations.

4.7 Compromise, Termination, and Suspension of Collection:

4.7.1 In order to maximize collections for the United States, settlement authorities may agree to a compromise settlement when:

4.7.1.1 The tortfeasor is unable to pay the full amount within a reasonable time. Obtain a sworn statement showing the debtor's assets and liabilities, income, expenses, and insurance coverage, and include it in the claim file.

4.7.1.2 The Government is unable to collect a claim in full within a reasonable time, even though it has used enforced collection proceedings.

4.7.1.3 The cost to collect does not justify enforced collection in the full amount.

4.7.1.4 The Government might have difficulty proving its case in court for the full amount claimed, if a question exists about the tortfeasor's liability or a problem arises in proving the amount and extent of damages to the United States.

4.7.2 Settlement authorities may not compromise in cases of fraud, misrepresentation, or violation of antitrust laws. The DoJ must authorize compromise of such claims.

4.7.3 The SJA may terminate all collection efforts when:

4.7.3.1 The Government is unable to collect the debt after exhausting all collection methods.

4.7.3.2 Claims personnel cannot locate the tortfeasor.

4.7.3.3 The cost to collect will exceed recovery.

4.7.3.4 The claim is legally without merit.

4.7.3.5 The evidence does not adequately prove the claim.

4.7.4 The SJA may suspend collection action when authorities cannot locate the tortfeasor or the tortfeasor is unable to pay, but future collection may be possible.

4.8 Reporting Potential Claims. Personnel report to AFLSA/JACC by message all incidents involving damage to or loss of Government property that may result in liability of a third party in excess of \$10,000. (See paragraph 1.6.7. RCS: HAF-JA (AR) 8302.)

4.9 Investigating the Claim. Claims personnel aim to conduct timely, thorough investigations of potential claims.

4.9.1 Thoroughly document the claim file and include, when applicable, witness statements, copies of other investigations, correspondence with the tortfeasor, insurance information, a report on the tortfeasor's financial status, and a summary of any applicable law.

4.9.2 Include in the file evidence of loss or actual damage and costs of repair (including materials and overhead) or replacement of Government property. If the cost of labor and overhead is based on a Government regulation, directive, or technical order, include the appropriate portions of that document in the file.

4.9.2.1 Include in this file evidence of consequential damages (loss of use, removal to storage, and storage costs), if any. Support with evidence the calculation of those damages, and include this information in the file.

4.10 Monitoring the Claim. After claims personnel assert the claim, the base SJA ensures that personnel monitor the claim and aggressively follow up. If the tortfeasor fails to respond to two letters at 30-day intervals, or claims personnel cannot obtain the full settlement, the SJA sends the file to AFLSA/JACC with a recommendation for disposition.

4.10.1 If claims personnel do not receive payment within 18 months from the incident date, or if there is indication of fraud or misrepresentation by the tortfeasor, the SJA refers the file to the US Attorney or the DoJ. The SJA coordinates with AFLSA/JACC to discuss the file and the reasons for referral.

4.10.1.1 After referring the claim to the US Attorney, the SJA periodically queries the US Attorney to determine the status of the claim if the SJA receives no report. The SJA advises AFLSA/JACC, if the US Attorney refuses to file suit or is unsuccessful in securing payment.

4.10.2 The SJA notifies AFLSA/JACC when a foreign country voluntarily offers to pay a claim, or offers to repair or replace the lost or damaged property.

4.11 Reporting Litigation. Claims personnel keep AFLSA/JACC informed when a pro-Government claim goes into litigation, because the litigation might have a wide-ranging policy implications. Submit a report to AFLSA/JACC in the litigation report format described in AFI 51-501. Include a copy of the pleadings, along with the litigation report. As significant litigation events occur, notify AFLSA/JACC. When the litigation is complete, send a final report detailing the results. (See paragraph 1.6.7. RCS: HAF-JA (AR) 8302.)

4.12 Collecting and Disposing of Claims. Claims personnel collect and dispose of tort claims in favor of the Government.

4.12.1 When a third party offers full payment or an acceptable compromise on a claim within the base's settlement authority, accept the offer and prepare a release, if requested.

4.12.2 When a third party offers to pay the debt in installments (either in the full amount or an acceptable compromise), and the claim is within the base settlement authority, the SJA may accept the debt, if the third party can repay it within a reasonable time and the compromise does not release any joint tortfeasor. Prepare a confession of judgment (*cognovit*) note, which details the repayment schedule, and have the tortfeasor execute it. Carefully follow the claim to ensure that the third party makes payment according to the schedule.

4.12.2.1 Claims personnel keep the file until the third party has made full payment according to the terms. If the third party is delinquent in making an installment payment, write a demand letter reminding the third party of the obligation to pay. Continue collection efforts for no more than 90 days after the account becomes delinquent, and then send the file to AFLSA/JACC with a recommendation for appropriate disposition.

4.12.3 The settlement authority may accept a third party's offer to repair or replace the damaged property. The third party repairs or replaces the property to the satisfaction of the accountable property officer.

4.12.3.1 Because the repair or replacement does not require spending operational funds and lost or damaged property is restored or becomes reusable, claims personnel should strive to arrange this procedure.

4.12.4 When a party refuses to pay voluntarily, settlement authorities implement setoff action to collect claims, if all parties have agreed upon the tortfeasor's liability or the claim is subject to liquidation. The United States has the same right as any other creditor to apply money of the debtor toward paying off a debt. The United States may administratively set off a liquidated tort claim against an amount that it owes to the claimant.

4.12.5 When two or more tortfeasors are jointly and severally liable, settlement authorities may divide the payment between the tortfeasors. Take care that a compromise with one tortfeasor does not release the claims against the remaining responsible parties.

4.13 Prejudgment Interest. A settlement authority may waive prejudgment interest (where statute, contract, or regulation do not require it) to encourage payment. Inform the tortfeasor that the United States will seek such interest in the event of litigation.

4.14 Depositing Collections. Claims personnel deposit collections. (See 31 U.S.C. 3302, 10 U.S.C. 2831.)

4.14.1 Deposit collections for loss, damage, or destruction to Air Force family housing, caused by abuse or negligence, to the DoD Military Family Housing Management Account 57*7045.

NOTE: Insert the last digit of the current fiscal year for the *.

4.14.2 Deposit collections for loss, damage, or destruction to other **real** property to the appropriate funds account of the organization responsible for the repair, maintenance, or replacement of the real property.

4.14.3 Deposit collections for loss, damage, or destruction to property under control of an Air Force Industrial Fund (AFIF) to the appropriate industrial fund account.

4.14.4 Pay or deposit claims involving NAFI property, in accordance with paragraph 1.4.8.

4.14.5 Deposit all other collections to the US Treasury Miscellaneous Receipts Account 57*3019.

NOTE: Insert the last digit of the current fiscal year for the *.

Chapter 5

HOSPITAL RECOVERY CLAIMS

5.1 Scope. This chapter explains how the United States asserts and settles claims for costs of medical care against third parties under the Federal Medical Care Recovery Act (FMCRA), 42 U.S.C. 2651-2653; the Coordination of Benefits (COB) Program, 10 U.S.C. 1095; and other laws. Refer to claims under this chapter as "HR" claims.

5.2 Assertable Claims.

5.2.1 In keeping with the Air Force policy of aggressive collection of pro-Government claims, each settlement authority may assert a claim in any amount. Assert a claim only if the SJA determines that it merits assertion. If the Air Force has furnished or will furnish medical care in military health care facilities or has reimbursed a private care provider, assert a claim if:

5.2.1.1 A third party is liable in tort for causing an injury or disease.

5.2.1.2 Federal, state or foreign law permits the United States to recover.

5.2.1.3 The United States is a third-party beneficiary under uninsured motorist coverage, medical payments insurance coverage, no-fault statutes, workers' compensation, or other statutes.

5.2.1.4 The United States has a statutory right of recovery against a third party.

5.2.2 Coordination of Benefits (COB) Claims. Comply with 10 U.S.C. 1095 for recovering medical care expenses. Claims personnel return money collected in accordance with 10 U.S.C. 1095 to the military treatment facility (MTF) at which the sick or injured party received care.

5.2.2.1 MTFs conduct active programs of asserting and collecting claims against health insurance companies of retirees and dependents for inpatient and outpatient care. A claims office may get involved with these COB claims, if the MTF is unable to collect from an insurer. The MTF submits the case file to the claims office for review and follow-up, if appropriate. The SJA takes steps necessary to collect the claim, including referral to the US Attorney in appropriate cases.

5.2.2.2 Claims offices use 10 U.S.C. 1095 as the primary statutory basis of recovery against various types of automobile insurance.

NOTE: The statute is particularly helpful in "no-fault" insurance states that have eliminated traditional tort liability. Use this statute to authorize collection from an entity that provides insurance, medical service, or a health plan by contract or agreement. This includes automobile liability insurance and no-fault insurance.

5.2.3 Settlement authorities only assert those claims for \$150 or less in which:

5.2.3.1 They determine that the collection will exceed the cost to collect.

5.2.3.2 The third party offers payment.

5.2.3.3 The United States asserts a property damage claim under chapter 4 arising out of the same incident.

5.3 Nonassertable Claims. Settlement authorities do not assert:

5.3.1 Claims against any department, agency, or instrumentality of the United States. These include any self-insured nonappropriated fund activity (revenue-producing, welfare, or other). They do not include private organizations.

5.3.2 Claims for care that the Department of Veterans Affairs (VA) provides a veteran for a service-connected disability. Assert claims for the reasonable value of medical care that an Air Force member receives before discharge and transfer to the VA facility.

5.3.3 Claims for care that the US furnishes a merchant seaman in accordance with 42 U.S.C. 249. Do not file a claim against the seaman's employer.

5.3.4 Claims involving Government contractors, foreign governments, US personnel, and products liability without first obtaining AFLSA/JACC approval.

5.3.4.1 If the United States must reimburse the contractor for a claim according to the terms of the contract, settlement authorities investigate the circumstances surrounding the incident to determine if assertion is appropriate. If the United States is not required to reimburse the contractor, the SJA may assert a claim against the contractor. The SJA carefully reviews the contract to determine the feasibility of asserting such a claim.

5.3.4.2 Settlement authorities investigate any claims that might be made against foreign governments, their political subdivisions, armed forces members, or civilian employees. Send the claim file containing the investigation to AFLSA/JACC along with the SJA's recommendation. AFLSA/JACC decides if a claim is appropriate.

5.3.4.3 Settlement authorities do not assert claims against members of the uniformed services, employees of the United States, its agencies or instrumentalities, or a dependent of a service member or employee.

EXCEPTION: Settlement authorities assert claims against persons or organizations which have insurance to cover the Air Force's claim.

EXCEPTION: Settlement authorities may assert a claim against a service member, a Federal civilian employee, or dependents whose willful misconduct or gross negligence results in medical treatment provided at Government expense.

5.3.4.4 Products Liability. Due to the unique nature of product liability issues and claims litigation, settlement authorities get AFLSA/JACC approval before asserting a claim, using a products liability theory of recovery.

5.4 Asserting the Claim.

5.4.1 The SJA asserts a claim against the tortfeasors, using SF 96, **Notice of Claim**. Send a copy to each tortfeasor and the tortfeasor's insurance company, if known. Assert a non-tort-based claim, using a formal letter on Air Force stationery. In the

demand letter, clearly state the legal basis for recovery and sufficiently identify the facts and circumstances surrounding the incident giving rise to the medical care. Applicable bases of recovery include local foreign law, US status as a third-party beneficiary under various types of insurance policies, workers' compensation laws, no-fault laws, or other Federal statutes, including 10 U.S.C. 1095.

5.4.1.1 If the amount of the claim asserted is in excess of \$5,000, send the demand via certified mail, return receipt requested. If a tortfeasor or other third party fails to respond within a reasonable period of time, send a second notice of claim also by certified mail, return receipt requested.

5.4.2 The SJA or claims officer promptly notifies the injured party, in writing, that the United States will attempt to recover from a third party the reasonable value of medical care furnished or to be furnished. The SJA or claims officer may advise the injured party to seek advice from a legal assistance officer or civilian counsel. Notify injured parties of their required cooperation in the prosecution of all actions by the United States against third parties. Advise them that they must give a complete statement regarding the facts and circumstances surrounding the incident giving rise to the medical care. Advise injured parties not to sign a release or settle any claim resulting from the incident without first notifying the claims office.

5.5 Referring a Claim to the US Attorney. Only AFLSA/JACC may authorize referral of a claim to the US Attorney.

5.5.1 The base SJA ensures that personnel review all claims for possible referral not later than two years after the date of the incident.

5.5.2 Personnel send unsettled claims, with the SJA's recommendation, to AFLSA/JACC.

5.5.3 AFLSA/JACC may authorize (by telephone) referral of a case to the US Attorney.

5.6 Statute of Limitations. A claim of the United States is subject to 28 U.S.C. 2415-2416. The United States, or the injured party on behalf of the United States, must file suit, based on tort, within three years after a Federal medical facility first provides treatment or after the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) makes the initial payment. File suits based in contract within six years.

5.6.1 The SJA ensures that personnel apply the correct governing statute.

5.7 Recovery Rates. Settlement authorities consult the *Federal Register* for the rates for medical care costs in US Government MTFs, which the Office of Management and Budget (OMB) or the Secretary of Defense sets. OMB publishes the rates at the beginning of the Federal Government fiscal year. The medical expenses that authorities pay to private health care providers are the actual dollar cost of that care. While third parties usually may not challenge the rates (a substitution of local rates is possible under 10 U.S.C. 1095), they may challenge the necessity for the care and treatment that the MTF provided.

5.8 Waiver and Compromise. The United States may waive or compromise its interest when it cannot collect a claim in full. An injured party or its representative requests a waiver or compromise in writing, and sufficiently states the reasons for the requested waiver or compromise.

5.8.1 The United States, for its own convenience, may waive a claim when it cannot locate the tortfeasor, the tortfeasor cannot pay or has refused to pay, collection costs outweigh potential recovery, or the case is too weak for litigation. Settlement authorities waive these claims when they see fit.

5.8.2 Settlement authorities may also waive or compromise claims when collection would cause an undue hardship on the injured party or when litigation risks or other factors warrant. In determining whether or not to waive such a claim consider these factors concerning the injured party:

5.8.2.1 Permanent disability or disfigurement.

5.8.2.2 Decreased earning power.

5.8.2.3 Out-of-pocket expenses.

5.8.2.4 Financial status.

5.8.2.5 Pension rights.

5.8.2.6 Other Government benefits available to the injured party.

5.8.2.7 When an offer of settlement from a third party (taking into account most or all of the third party's assets and insurance) is considerably less than the injured party's damages.

5.8.2.8 The liability is questionable.

5.8.2.9 The injured party received excessive treatment.

5.8.2.10 The litigation risks are too high.

5.8.2.11 The Government's claim is almost as large as, or larger, than the assets available for settlement.

5.8.2.12 The injured party accepts less than the jury verdict expectancy. Settlement authorities can calculate an appropriate amount to compromise the claim after considering how the total settlement compares to the jury verdict expectancy, as calculated using appropriate jury expectancy guides.

5.8.2.13 When collection would cause an undue hardship on the injured party.

5.8.3 An injured party or its representative must make a compromise request in writing and clearly detail the reasons for the requested compromise.

5.9 Reconsideration. A settlement authority may reconsider its previous disapproval of a waiver or compromise when the injured party submits new evidence, or the settlement authority learns of errors in the claim submission or settlement.

5.10 Administration. MAJCOM SJAs with overseas claims responsibilities may modify this chapter's procedures, if they receive approval in advance from AFLSA/JACC. Direct any questions regarding the interpretation or application of any section of this chapter to AFLSA/JACC.

5.10.1 Personnel send files of potential claims against non-Air Force, active-duty military members or Federal civilian employees, through AFLSA/JACC, to the military service concerned when they involve official duty or scope of employment issues. The other military service determines whether it will assert a claim and, if applicable, refers the claim to the single-service claims authority in a foreign country.

5.10.1 Judge advocates and civilian attorneys may participate in litigating HR claims, including filing pleadings and representing the United States before workers' compensation boards, administrative tribunals, and courts of law. Coordinate with AFLSA/JACC and obtain the approval of the local US Attorney before participation.

5.10.3 Claims personnel open a claim when they have enough facts to assign liability for payment to some third party.

5.10.4 Claims personnel set up an internal control log to track potential hospital recovery claims. The log includes cases that medical facilities, CHAMPUS, or other sources refer. The log identifies patients and notes whether or not appropriate authorities are asserting a claim. If no appropriate authorities are asserting the claim, then annotate the log with the reason why. Maintain the log consistently to help track the disposition of potential claims.

5.11 Notice of Potential Claims. Because a successful hospital recovery program depends on the difficult task of identifying all potential claims, the base SJA sets up and maintains a network of contacts throughout the base community to bring potential claims to the attention of the legal office. The SJA periodically publicizes the work that the legal office does in collecting medical care costs.

5.11.1 Base contacts can provide potential claims from a variety of sources, including:

5.11.1.1 Medical facility registrars.

5.11.1.2 Patient affairs representatives

5.11.1.3 MTF resource management offices.

5.11.1.4 Other military claims offices.

5.11.1.5 Medical record requests.

5.11.1.6 CHAMPUS

5.11.1.7 The AFO.

5.11.2 The MTF registrars and patient affairs representatives advise the base SJA of potential third-party liability claims arising from injuries resulting from motor vehicle accidents. Make this notification on AF Form 1488, **Daily Log of Patients Treated for Injuries**, or AF Form 438, **Medical Care Third-Party Liability Notification**.

5.11.3 Resource managers (RM) in Government hospitals can provide copies of paid vouchers for military members treated in private facilities. The RM office also submits unresolved coordination of benefits claims against health insurance policies. The legal office vigorously pursues any health insurance claims utilizing 10 U.S.C. 1095.

5.11.4 Claims personnel send any potential claims information, including CHAMPUS information or payments, to the appropriate claims office.

5.11.5 Often, injured parties, their agents, workers' compensation boards, or insurance carriers request medical records from Air Force medical facilities. This request might indicate a potential claim. The SJA, therefore, ensures that medical facility personnel provide copies of all such requests to the base legal office for review and possible recovery action. The request for records might also indicate possible medical malpractice against the United States. AFLSA/JACC oversees medical malpractice actions.

5.11.6 AFO personnel provide copies of vouchers when the Government pays civilian medical facilities for care provided overseas.

5.11.7 Other sources of potential claims include:

5.11.7.1 Other Federal medical facilities.

5.11.7.2 Security police desk blotters.

- 5.11.7.3 Legal assistance.
- 5.11.7.4 Reports of survey.
- 5.11.7.5 Property damage claims.

5.12 Interdepartmental Actions. If the injured party or sponsor is a member of another military service or Federal agency, claims personnel send the information concerning the medical treatment to the appropriate military service or agency for action. Refer hospital recovery claims to the designated military service in those areas of the world the DoD has imposed single-service responsibility. The responsible department may ask a more conveniently located military service or agency to investigate a claim.

5.13 Investigating the Claim. After identifying a potential claim, claims personnel fully investigate the facts and circumstances surrounding the claim. Clearly annotate the results of the investigation in the claims file. If necessary, the SJA may ask a more conveniently located claims office to help investigate the claim.

5.14 File Documentation. Claims personnel keep a claim file as complete as possible to sufficiently identify all parties.

- 5.14.1 The file includes, as applicable:
 - 5.14.1.1 The name, address, and occupation of each third party.
 - 5.14.1.2 Insurance information (to include the policy number and address of the insurance company) of all parties.
 - 5.14.1.3 A statement indicating whether a third party military member was on duty and acting within the scope of employment at the time or was grossly negligent or engaged in willful misconduct.
- 5.14.2 In vehicle cases, claims personnel file insurance information, including:
 - 5.14.2.1 Uninsured motorist status.
 - 5.14.2.2 Personal injury protection.
 - 5.14.2.3 Medical payments.
 - 5.14.2.4 Other major medical insurance coverage available to any person potentially involved.
 - 5.14.2.5 Any action taken in accordance with a state's financial responsibility laws.
- 5.14.3 Claims personnel file all the documentary evidence supporting the Government's claim for medical care costs.
 - 5.14.3.1 This evidence includes:
 - 5.14.3.1.1 CHAMPUS forms.
 - 5.14.3.1.2 Aid vouchers.
 - 5.14.3.1.3 AF Forms 438, or other military service equivalents.
 - 5.14.3.2 If personnel submit the file to AFLSA/JACC before care is completed, ensure that the current billing data is as accurate as possible.
 - 5.14.3.3 Claims personnel annotate the amount of the Air Force claim so a third party or its insurer can easily identify the treatment amounts and locations. Readily identify the appropriate OMB rates, the actual dollar cost, or other amount that the United States has paid. Calculate the Government's claim by listing the Office of Management and Budget or Secretary of Defense rates and adding the actual cost of treatment from non-Federal sources. Exclude subsistence or other dependent flat-rate charges, convalescent leave, and hospitalization not directly related to the injury.
- 5.14.4 Claims personnel file information about the nature and extent of any injury or disease, such as:
 - 5.14.4.1 Whether the injured party has suffered a permanent or temporary disability.
 - 5.14.4.2 Whether the injured party has sufficiently described the disability, including the extent of injury.
 - 5.14.4.3 The amount of severance pay or pension the injured party has received, or will receive, from the United States.
- 5.14.5 Claims personnel also file, if applicable:
 - 5.14.5.1 A copy of relevant medical records.
 - 5.14.5.2 A brief of the law on the liability of the third party in the state or location of the claimed injury.
 - 5.14.5.3 Copies of all pertinent correspondence.
 - 5.14.5.4 The name and address of the injured party's attorney.
 - 5.14.5.5 A copy of any relevant contract or insurance policy.
 - 5.14.5.6 The status of any lawsuit or contemplated lawsuit.
 - 5.14.5.7 A copy of any release that the injured party has signed.
 - 5.14.5.8 The disposition of all related charges and traffic citations.
 - 5.14.5.9 The police report.
 - 5.14.5.10 All other relevant evidence in support of the claim.

5.15 Monitoring the Claim. After asserting the claim, claims personnel monitor the claim closely to ensure that personnel collect payments effectively and aggressively.

Diligently work to ensure settlement or closure of the file.

5.15.1 If settlement is not possible, the SJA may refer the claim to the US Attorney or the DoJ, as appropriate. The SJA coordinates and works closely with all parties, including attorneys and insurers.

5.16 Attorney Representation Agreement. It is often advantageous for the US to have a private attorney represent the Government's medical care recovery interest.

The United States Attorney is not able to handle routine hospital recovery cases. The SJA may request the injured party's attorney to represent the Air Force interest. Advise that attorney of the conditions of the requested representation. The injured party's attorney may include the Government's claim in his or her client's pleadings so that the United States need not become a party to the suit.

NOTE: See the *Claims Adjudicator's Handbook* for a sample representation letter and agreement.

5.17 Releasing Records:

5.17.1 Claims personnel may release medical records supporting a United States hospital recovery claim (in accordance with AFI 51-301, AFI 37-131 and AFI 37-132) to the injured party or authorized agent, the third party, or the US Attorney, if the United States is involved in litigation.

5.17.2 Claims personnel refer requests for release of medical records that the base SJA cannot honor through claims channels to AFLSA/JACC. Transmit the records, if available, and the claim file with the request.

5.18 Requesting Witnesses. A base SJA may honor an injured party's request for the presence of a Government witness, if the base will provide local funds for any travel or temporary duty (TDY) associated with the request. Otherwise, notify AFLSA/JACC as soon as possible after receiving the request, then compile and submit information about the witness request to AFLSA/JACC. Consult other guidance for non-HR related witness requests or contact AFLSA/JACC for further information.

5.18.1 Treating Physicians. Treating physicians are ordinarily considered fact witnesses. However, their testimony may take on some of the aspects of expert testimony, particularly when they are testifying about prognosis or causation. Generally treating physicians may testify concerning their treatment of the injured party; they may offer opinions concerning causation and prognosis only in so far as those opinions were developed during the course and within the scope of that treatment. Forward such requests to AFLSA/JACC for disposition.

5.19 Disposing of Claims:

5.19.1 When a third party offers to pay in full, the SJA accepts the offer and signs a release if the third party requests it. Deposit the payment with the nearest AFO.

5.19.2 When a third party offers to pay in full by installments, the SJA may accept if payment will be complete within a reasonable time. Prepare a confession of judgment (*cognovit*) note, which details the repayment schedule, and have the tortfeasor execute it, if possible. The legal office keeps the file until the third party pays the claim in full. Sign a release of claim if the third party requests it.

5.19.3 When a third party offers a compromise settlement, by payment of one lump sum or installments, the SJA may accept the payment if it is within the settlement authority.

NOTE: See paragraph 5.8.2 for valid reasons for compromise. The SJA ensures that the third party makes payment within a reasonable time and that the compromise does not release any joint tortfeasor from payment.

5.19.4 When a third party misses an installment payment, the SJA must initiate aggressive collection efforts. Continue trying to collect for no more than 90 days.

Send claims to Coordinate with AFLSA/JACC when the third party fails to provide an acceptable response.

5.20 Depositing Collections. Claims personnel use DD Form 1131 to deposit funds that the United States collects under the hospital recovery program.

5.20.1 Deposit money recovered from a third-party payer under the authority of 10 U.S.C. 1095 into the operations and maintenance account of the Air Force, Army, or Navy MTF that provided the medical care. After 30 November 1993, deposit money recovered under any statute from any payer for treatment in an MTF into that MTF's account.

5.20.2 If 10 U.S.C. 1095 is not the basis for recovery, deposit money recovered directly from tortfeasors, workers' compensation funds, automobile insurers, and other insurance sources (such as homeowner's insurance), with the Treasury to the Miscellaneous Receipts Account 57 3210.999. After 30 November 1993, if the MTF did not provide the treatment, then deposit the money recovered into the US Treasury.

5.20.3 Deposit only money recovered based on MTF treatment into an MTF account. Claims personnel may have to distribute funds among several MTFs on a prorated basis. Deposit money recovered from an automobile insurer for care provided in an MTF before 5 November 1990, or provided in a civilian hospital, including CHAMPUS, with the US Treasury. Deposit money recovered from an automobile insurer for care provided in an MTF after that date in the MTF's account. If the amount recovered is less than the amount demanded, deposit money to the MTF's account first and deposit the remainder, if any, with the US Treasury.

Chapter 6

CLAIMS UNDER ARTICLE 139, UNIFORM CODE OF MILITARY JUSTICE (UCMJ) (10 U.S.C. 939)

6.1 Scope. This chapter explains the Air Force procedures for processing Article 139, UCMJ, claims.

6.2 Claims Payable. Appointing commanders may direct collection and pay a claim for property that Air Force military personnel willfully damage or wrongfully take, if the claim results from riotous, violent, or disorderly conduct. Article 139 applies to Air National Guard members only when they are performing duty under Title 10 of the United States Code. If a claim is payable under this chapter and also under another chapter, settlement authorities may pay the claim under this chapter, if AFLSA/JACC authorizes it.

6.3 Claims Not Payable. Appointing commanders do not pay:

- 6.3.1 Claims resulting from simple negligence.
- 6.3.2 Claims for personal injury or death.
- 6.3.3 Claims resulting from acts or omissions of Air Force military personnel performing legally authorized duties.
- 6.3.4 Claims of subrogees.
- 6.3.5 Claims arising from private indebtedness.
- 6.3.6 Claims for reimbursement for bad checks.

6.4 Limiting Provisions. A person who wishes to file an Article 139 claim against an Air Force member submits a complaint within 90 days of the date of the incident.

EXCEPTION: The claimant may file after 90 days, if the appointing commander finds good cause for the delay. A command determination of good cause or absence of good cause is final.

- 6.4.1 AFLSA/JACC must approve any assessment of damages in excess of \$5,000 against an offender for a single incident.
- 6.4.2 Appointing commanders may not pay indirect, remote, or consequential damages.

6.5 Filing a Claim. In order to file a claim in accordance with Article 139, the claimant must complain (orally or in writing) to the commander of the military organization or unit of the alleged offending member or members. If claimants are unsure what organization the offender belongs to, they may file a complaint with the commander of the nearest military installation. While claimants do not need to request a specific amount when they first complain, the claimant or authorized agent must present a claim for a specific amount in writing before appointing commanders make a settlement.

6.6 Action by Commanding Officer Receiving the Complaint:

- 6.6.1 If the commanding officer who receives the complaint has special court-martial convening authority (SPCMCA), and if the offender is a member of the command or is unknown, the commander appoints a board of officers to investigate the complaint.
- 6.6.2 A commanding officer without SPCMCA sends the complaint to the next higher officer in the chain of command exercising such court-martial convening authority.
- 6.6.3 If the offender is known, but is not a member of the command, the commander sends the complaint to the offender's immediate commanding officer.
- 6.6.4 If the offenders are members of different commands, whose commanding officers each have SPCMCA, the commander submits the complaint to the commanding officer nearest the place of the incident.
- 6.6.5 If the offender is a member of another military service, the commander sends:
 - 6.6.5.1 The complaint to the offender's unit commander of that other military service.
 - 6.6.5.2 A copy of the complaint to the legal office serving that unit commander.

6.7 Action by the Board of Officers:

6.7.1 The board of officers investigates the facts and circumstances surrounding the complaint. The board notifies the offender, in writing, of the pending complaint and of these rights:

6.7.1.1 Article 31, UCMJ, rights including the right to counsel.

6.7.1.2 To examine evidence presented.

6.7.1.3 To present evidence in the offender's own behalf.

6.7.1.4 To receive the commanding officer's written decision.

6.7.2 The board of officers:

6.7.2.1 Determines if the claim falls under Article 139, UCMJ.

6.7.2.2 Identifies the offenders.

6.7.2.3 Determines liability and damages.

6.7.2.3.1 If the offender voluntarily makes payment of an amount in full satisfaction and final settlement, the claimant may seek no further recovery.

6.7.2.3.2 If the offender voluntarily makes a partial payment, the board deducts that amount in computing the assessment.

6.7.2.3.3 The board submits a report to the appointing commander, through the SJA, with findings based on the evidence. The board may recommend the following:

6.7.2.3.3.1 Assessing damages against the offender.

6.7.2.3.3.2 Assessing appropriate damages against individual unit members who were present when the damage occurred, but where authorities cannot individually identify the offender

6.7.2.3.3.3 Disapproving the claim.

6.8 Assessing Damages. When the board assesses damages and the offender is a member of the command, the SJA reviews the report for legal sufficiency and compliance with this chapter. The SJA determines if a preponderance of the evidence supports the findings and if the board's recommendations are consistent with the findings.

6.8.1 The SJA returns the record to the board for further investigation or correction, if irregularities or discrepancies exist, or sends the report to the appointing commander.

6.8.1.1 The appointing commander:

6.8.1.1.1 Determines if the claim falls under Article 139, UCMJ.

6.8.1.1.2 Sets the amount to be assessed against each offender. This amount does not exceed the amount that the board recommends.

6.8.1.1.3 Directs the accounting and finance officer to withhold the specified amount from the pay of each offender and to pay the claimant.

6.8.1.1.4 Notifies the claimant and the offender of the action taken.

6.8.1.1.5 Keeps the original and one copy of the approved board report.

NOTE: Neither the claimant nor the offender may appeal the decisions of the appointing commander.

6.8.1.2 The accounting and finance officer having custody of the offender's pay record pays the claim.

6.8.2 If the alleged offender is not a member of the command, the appointing commander sends the report directly to the offender's commanding officer exercising SPCMCA for final action.

6.8.3 If the alleged offender is a member of a different service, the appointing commander sends the report directly to the commander of the member's unit of the service concerned.

6.9 Reconsidering Article 139 Assessments:

6.9.1 The commanding officer originally ordering the assessment may reconsider and change the decision, if the findings later prove to be wrong.

6.9.2 The successor in command may change or cancel the assessment only on the basis of:

6.9.2.1 Newly discovered evidence.

6.9.2.2 Fraud.

6.9.2.3 Obvious error of law or fact.

6.9.3 The commanding officer or the successor may take the actions stated above, even after transfer of the offender.

6.10 Canceling Indebtedness. Authorities may cancel indebtedness assessed under Article 139, UCMJ, only in accordance with this chapter. Other statutes authorizing the Secretary of the Air Force to cancel indebtedness of an enlisted member do not apply to Article 139, UCMJ.

NOTE: See 10 U.S.C. 9837(d), and *DoD Military Pay and Allowances Entitlements Manual*, paragraph 70722.

6.11. Effect of Disciplinary Action. An Article 139 claim is separate and distinct from disciplinary action that authorities take under any other article of the UCMJ.

B. G. Hawley, Maj General, USAF
The Judge Advocate General

GLOSSARY OF ABBREVIATIONS, ACRONYMS AND TERMS***Abbreviations and Acronyms***

AAFES—Army and Air Force Exchange Service
AFCIMS—Armed Forces Claims Information Management System
AFO—Accounting and finance office
AFRES—Air Force Reserve
AGC—Agreed cost of repair
ALDG—Allowance List - Depreciation Guide
AMC—Air Mobility Command
ANG—Air National Guard
CAMP—Claims Administrative Management Program
CHAMPUS—Civilian Health and Medical Program of the Uniformed Services
COB—Coordination of benefits
CR—Carrier recovery claim
DeCA—Defense Commissary Agency
DITY—Do-it-yourself
DJAG—Deputy Judge Advocate General of the Air Force
DoD—Department of Defense
DoDDS—Department of Defense Dependent Schools
DoJ—Department of Justice
DPM—Direct procurement method
DRMO—Defense Reutilization and Marketing Office
F&R—Fair and reasonable
FAR—Federal Acquisition Regulations
FAX—Facsimile
FMCRA—Federal Medical Care Recovery Act
GBL—Government bill of lading
JACC (AFLSA/JACC)—General Claims Division, Air Forces Legal Services Agency
JACT—Tort Claims and Litigation Division, Air Forces Legal Services Agency (AFLSA/JACT)
JFTR—Joint Federal Travel Regulation
LAL—Land-air-land
LOV—Loss of value
LWL—Land-water-land
MAJCOM—Major air command
MSC—Military Sealift Command
MTF—Medical treatment facility
MTMC—Military Traffic Management Command
MWRSA—Morale, Welfare, Recreation, and Services Agency
NAF—Numbered air force
NAFI—Nonappropriated fund instrumentality
NTS—Nontemporary storage
OMB—Office of Management and Budget
PCR—Potential carrier recovery
PCS—Permanent change of station
PED—Preexisting damage
PPTMR—Personal Property Traffic Management Regulation
RM—Resource manager
RSMO—MTMC Regional Storage Management Office
SIT—Storage-in-transit
SJA—Staff judge advocate
SPCMCA—Special court-martial convening authority
TDY—Temporary duty
TGBL—Through government bill of lading
TJAG—The Judge Advocate General of the Air Force

TMO—Traffic Management Office
UCMJ—Uniform Code of Military Justice
USO—United Service Organization
VA—Department of Veterans Affairs

Terms

Appointing Commander —The commander with special court-martial jurisdiction over the offender in an Article 139, UCMJ, claim.

Assert a Claim—A written demand by the Air Force upon an individual, partnership, association, corporation, or government for a specified amount of money for expenditures, losses, or damages the Air Force paid, replaced, or repaired.

Assistant Claims Officer —An attorney, a noncommissioned officer (who has at least a 7-skill level) with at least 6 months of claims experience, or an Air Force civilian employee (GS-6 or above) with at least 6 months of claims experience, employed by the Department of the Air Force in the office of an SJA, and appointed in writing by the SJA as an assistant claims officer.

Bill of Lading —A contract for movement and delivery of goods. Carriers issue commercial bills of lading. Transportation officers issue government bills of lading (GBL). GBLs include the terms and conditions of commercial bills of lading with certain exceptions. The GBL serves as a receipt for goods that personnel tender to a carrier, a contract, and a document authorizing the collection of transportation bills that the carrier presents.

Board of Officers —A board of one to three commissioned officers that investigates a complaint of willful property damage or wrongful taking by Air Force personnel under Article 139, UCMJ. The claims officer may be appointed as a one-member board of officers, if he or she is a commissioned officer.

Carrier —Any moving company, personal property forwarder, or freight forwarder holding a certificate or permit that a Federal or state regulatory agency has issued or (for international shipments) the DoD has approved.

Claim —A written and signed demand for or against the United States or the Air Force for a sum certain (specified amount of money).

Claimant—An individual, partnership, association, corporation, country, state, territory, political subdivision, or the District of Columbia. The US Government or any of its agencies may be a claimant in tort, carrier recovery, and hospital recovery claims.

Claims Clips—Informational bulletin published monthly by JACC.

Claims Officer —A commissioned officer, designated as a judge advocate of the Air Force, or a civilian attorney, employed by the Department of the Air Force in the office of an SJA, and appointed in writing by the SJA as a claims officer.

Compromise—A mutually binding agreement in which the Government accepts payment from the liable individual or organization for less than the full amount of the claim.

Conditional Vendor —A seller of personal property who delivers the property to the purchaser immediately, but retains the title to it until final payment is made.

Coordination of Benefits (COB)—Commonly used term to describe claims that claims personnel assert in accordance with 10 U.S.C. 1095. It is also known as “third-party collections.” This statute has wide-ranging application in the hospital recovery program and claims personnel may use it as a basis of recovery against a wide variety of insurance coverage.

Direct Procurement Method (DPM) —Government-arranged transportation through a series of contracts with packers and craters, line haul or motor freight carriers through commercial or Government terminals, using separate documents for each segment.

DITY Move —A do-it-yourself move.

Erroneous Payment —Payment made improperly or without legal authority, or made based on information provided by a claimant and later determined to be incorrect or untrue.

Fair Market Value —The established market value or the depreciated current replacement cost.

Fraud—In claims, the intentional and material misrepresentation of: the ownership, possession, value, condition, extent of damage, repair cost, purchase price, purchase date, or replacement cost of claimed property; the cause of loss or damage to property; or other material facts necessary for the informed adjudication of the claim.

General Claims Division, Air Force Legal Services Agency (AFLSA/JACC)—Oversees claims under the Military Personnel and Civilian Employees’ Claims Act and the pro-Government claims covered in this instruction.

Good Cause —An acceptable reason for extending a claim filing time (if the statute of limitations has not been exceeded), or for not performing a required action; for example, an officially recognized absence (TDY), hospitalization that directly contributes to the failure to file or act, and proven misinformation by Government personnel.

Gross Weight—The weight of the fully loaded van or shipping crate.

Incident to Service—A broad term that covers such aspects of military living as frequent movements in response to orders, assignment to quarters, and duty in foreign countries for military members, and generally work-related activities for civilian employees. See Chapter 2, Section E.

Injured Party—The person who received medical care for injury or disease as a result of the incident on which the hospital recovery claim is based. A guardian, personal representative, estate, or survivor may represent the injured party.

Medical Care—Medical and dental treatment, prostheses, and medical appliances that the Government provides or reimburses other sources for providing to eligible beneficiaries of Government medical care.

Military Traffic Management Command (MTMC). The US Transportation Command's component command responsible for military traffic, continental United States air and land transportation, and common-user water terminals. Among other responsibilities, MTMC manages the DoD household goods moving and storage program worldwide.

Negligence—The failure to exercise the degree of care expected of a "reasonable person" under the circumstances, when that failure is a proximate cause of the claimed loss or damage.

Net Weight—The weight of the fully loaded van or shipping crate (gross weight), less the weight of the empty van or shipping crate (tare weight).

Nontemporary Storage (NTS)—Long-term storage (normally in excess of 180 days) that the Air Force provides through the Basic Ordering Agreement or in Government facilities at CONUS water ports.

Offender—The military member or members causing the damage or alleged to have caused the damage that is the basis for an Article 139, UCMJ, claim.

Owner—A holder of a legal title or an equitable interest in certain property. For real property, specific examples of an owner include: a mortgagor or a mortgagee, if that individual can maintain a cause of action in the local courts involving a tort to the specific property. For personal property, specific examples of an owner include a bailee, lessee, mortgagee, or conditional vendee. For personal property, an owner is not a mortgagor, a lien holder, a conditional vendor, or someone other than the owner with a title, because of a security interest.

Personnel Claims Act—The Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3701, 3721.

Property, Intangible—Property that has no outwardly apparent and marketable value, but is merely representative of value, such as non-negotiable stock certificates, promissory notes and bonds, bills of lading and warehouse receipts, baggage checks, bank books, unusable airline tickets, and art objects or documents that a claimant made or wrote.

Property, Personal—Any type of tangible property that is not real property.

Property, Real—Land and whatever is erected or growing upon or affixed to land.

Property—An item that an individual or business owns or possesses. Property includes tangible items, such as clothing, household furnishings, motor vehicles, real property, and currency. The term does not include intangible property or items having no independent monetary worth, such as stocks, bonds, checks, checkbooks, credit cards, telephone service, and cable television services.

Proximate Cause—The primary cause of the loss or damage, without which the damage would not have happened. Proximate cause is a term of legal art. If in doubt, consult an attorney.

Reasonable Value of Medical Care—Either an amount determined by reference to rates that the Office of Management and Budget or the Secretary of Defense set for the value of necessary medical care in United States medical facilities or the actual cost of care from sources that the United States reimburses.

Regional Storage Management Office (RSMO)—The MTMC office that negotiates and administers all storage contracts within a geographical area. The contracting officer of each RSMO makes involuntary collections of nontemporary storage loss and damage claims.

Robbery—Theft from a person by force, threat of bodily harm, snatching, or pickpocketing.

Settlement—An agreement or decision by the Air Force to accept or pay a specified amount of money to finally complete a claim or to reject or deny a claim to finally complete it.

Settlement Authority—The delegated authority to pay a claim in any amount up to the statutory maximum; deny a claim in any amount; or approve a compromise, waiver, suspension, or termination of a claim.

Tare Weight—The weight of the empty van or shipping crate.

Temporary Storage—Short-term storage that the Air Force provides through the Basic Ordering Agreement, direct procurement method (DPM) contract, or Government bill of lading. The transportation office limits temporary storage to 90 days, but may extend the storage period under specified terms in the *Joint Federal Travel Regulation* (JFTR). When personnel procure temporary storage under a Government bill of lading, it becomes "storage-in-transit" (SIT).

Tender of Service—A carrier's offer to do business with the DoD, including the terms and conditions of the agreement. The Personal Property Traffic Management Regulation (PPTMR), found in DoD Regulation 4500.34, appendix A, contains this agreement.

Tender—The offering and temporary transfer by a shipper (in this instruction, a military member or civilian employee moving on official orders) of items to the carrier for shipment.

Theft—The intentional, wrongful taking of someone else's property.

Third Party—An individual, partnership, business, corporation (including insurance carriers), or other entity that is indebted to the United States for medical care provided to an eligible beneficiary.

Through Government Bill of Lading (TGBL).—A single GBL for all transportation and related services on a shipment with the GBL carrier liable for loss or damage throughout the entire shipment.

Vandalism—Intentional damage to property, including vehicles.

Vehicles.—Automobiles, motorcycles, mopeds, utility trailers, camping trailers, trucks with mounted camper bodies, motor homes, aircraft, boats, and boat trailers.

Waiver—The voluntary relinquishment by the United States of the right to collect for medical care provided to an injured party.

Willful Damage—Damage or destruction that individuals cause intentionally, knowingly, and purposely, without justifiable excuse.

Wrongful Taking—Unauthorized taking or withholding of property with the intent to deprive the owner or person in lawful possession, either temporarily or permanently.

CLAIMS SETTLEMENTS AUTHORITY

Table A.2.1. Claims Settlements Authority

	Personnel Claims, Ch 2	Carrier Recovery, Ch 3	"Government" Claims, Ch 4	Hospital Recov- ery, Ch 5
Secretary of the Air Force (SECAF)	\$100,000 ¹	\$100,000	\$100,000	\$100,000
The Judge Advocate General, USAF	\$100,000 ¹	\$100,000	\$100,000 (unless collected in full) ²	\$100,000 (unless collected in full) ³
Deputy Judge Advocate General; Director of Civil Law; Chief, Gen- eral Claims Division	\$100,000 ¹	\$100,000	\$100,000 (unless collected in full) ²	\$100,000 (unless collected in full) ³
General Claims Division Branch Chiefs, Section Chiefs	\$40,000	\$100,000	\$100,000 (unless collected in full) ²	\$100,000 (unless collected in full) ³
SJAs of USAFE and PACAF			\$25,000 (unless collected in full)	\$40,000 (unless collected in full)
CENTAF SJA ⁴	\$40,000	\$100,000	\$25,000 (unless collected in full)	\$40,000 (unless collected in full)
SJAs of USAFE and PACAF GCMs			\$25,000 (unless collected in full)	\$25,000 (unless collected in full)
SJAs of AF bases, stations or fixed installations	\$40,000	\$100,000	\$25,000 (unless collected in full)	\$25,000 (unless collected in full)

1. Payments in excess of \$40,000 are contingent upon a finding that the loss was due to evacuation or other extraordinary circumstances.
2. All claims over \$100,000 not collected in full must be referred to DOJ for final settlement.
3. Compromise or waiver of claims over \$100,000 requires DOJ approval.
4. For claims arising out of CENTAF.